INTERNATIONAL COURT OF JUSTICE

Yearbook 1994-1995

No. 49

I.C.J. - THE HAGUE - 1995

Best copy available

YEARBOOK

1994-1995

ISSN 0074-445X
ISBN 92-1-170072-8

Sales number
Nº de vente: 669

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PRINTED IN THE NETHERLANDS

In March 1947 the International Court of Justice instructed the Registrar to publish a *Yearbook* providing general information concerning its organization, jurisdiction, activities and administration.

The *Yearbook* appears in the second half of each year. The present volume – forty-ninth of the series – covers the period from 1 August 1994 to 31 July 1995.

The *Yearbook* is prepared by the Registry and in no way involves the responsibility of the Court; in particular, the summaries of judgments, advisory opinions and orders contained in Chapter VI cannot be quoted against the actual texts of those judgments, advisory opinions and orders and do not constitute an interpretation of them.

Eduardo VALENCIA-OSPINA,
Registrar of the Court.

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INTRODUCTION

The *International Court of Justice*, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

I. Basic Texts

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. Other basic texts are the Rules of Court and the resolution concerning the internal judicial practice of the Court.

1. Charter of the United Nations

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

2. Statute of the International Court of Justice

(a) *Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 5*, pages 60-89.

The above-mentioned Article indicates that the Statute is based upon that of the *Permanent Court of International Justice*. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

(b) *States parties to the Statute*

Article 93 of the Charter provides:

> "1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
>
> 2. A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice

on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council."

The States parties to the Statute are listed in Chapter III, pages 60-66, of this *Yearbook*.

(c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter "shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council".

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, pp. 65-66, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

3. Rules of Court

Article 30 of the Statute provides that "the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure."

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the *Permanent Court*, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114; *I.C.J. Yearbook 1970-1971*, pp. 109-110) and on 10 May 1972 the Court adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were first published in *I.C.J. Acts and Documents No. 4* concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1978, 1972 and 1946 Rules of Court. The current publication containing the 1978 Rules of Court is *I.C.J. Acts and Documents No. 5* (pp. 92-161).

II. Chronological Survey

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court *(Corfu Channel (United Kingdom* v. *Albania))* was submitted on 22 May 1947.

Between then and 31 July 1995 the Court has had to deal with a total of 95 cases, i.e., 73 contentious cases and 22 advisory cases, as listed below[1]. In those cases it gave 60 judgments, of which 39 were on the merits, and 21 advisory opinions. Of the 284 orders made therein, 218 related solely to the fixing or extending of time-limits, while 252 orders related to contentious cases and 32 to advisory cases.

Title	*Dates*
(a) Contentious[2]	
Corfu Channel (United Kingdom v. *Albania)*	1947-1949
Fisheries (United Kingdom v. *Norway)*	1949-1951
Protection of French Nationals and Protected Persons in Egypt (France v. *Egypt)*	1949-1950
Asylum (Colombia/Peru)	1949-1950
Rights of Nationals of the United States of America in Morocco (France v. *United States of America)*	1950-1952

[1] Factual information (dates, etc.) regarding the course of the proceedings in each case is given in *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice* (see p. 145, below).

[2] In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

Title	*Dates*
Request for Interpretation of the Judgment of 20 November 1950 in the Asylum case (Colombia v. *Peru)*	1950
Haya de la Torre (Colombia v. *Peru)*	1950-1951
Ambatielos (Greece v. *United Kingdom)*	1951-1953
Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*	1951-1952
Minquiers and Ecrehos (France/United Kingdom)	1951-1953
Nottebohm (Liechtenstein v. *Guatemala)*	1951-1955
Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*	1953-1954
Electricité de Beyrouth Company (France v. *Lebanon)*	1953-1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *Hungary)*	1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *USSR)*	1954
Aerial Incident of 10 March 1953 (United States of America v. *Czechoslovakia)*	1955-1956
Antarctica (United Kingdom v. *Argentina)*	1955-1956
Antarctica (United Kingdom v. *Chile)*	1955-1956
Aerial Incident of 7 October 1952 (United States of America v. *USSR)*	1955-1956
Certain Norwegian Loans (France v. *Norway)*	1955-1957
Right of Passage over Indian Territory (Portugal v. *India)*	1955-1960
Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*	1957-1958
Interhandel (Switzerland v. *United States of America)*	1957-1959
Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*	1957-1959
Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*	1957-1960
Aerial Incident of 27 July 1955 (United Kingdom v. *Bulgaria)*	1957-1959
Sovereignty over Certain Frontier Land (Belgium/Netherlands)	1957-1959
Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*	1958-1960
Aerial Incident of 4 September 1954 (United States of America v. *USSR)*	1958
Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*	1958-1961

Title	*Dates*
Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. *Lebanon)*	1959-1960
Aerial Incident of 7 November 1954 (United States of America v. *USSR)*	1959
Temple of Preah Vihear (Cambodia v. *Thailand)*	1959-1962
South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa)*	1960-1966
Northern Cameroons (Cameroon v. *United Kingdom)*	1961-1963
Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain)*	1962-1970
North Sea Continental Shelf (Federal Republic of Germany/ Denmark; Federal Republic of Germany/Netherlands)	1967-1969
Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan)*	1971-1972
Fisheries Jurisdiction (United Kingdom v. *Iceland)*	1972-1974
Fisheries Jurisdiction (Federal Republic of Germany v. *Iceland)*	1972-1974
Nuclear Tests (Australia v. *France)*	1973-1974
Nuclear Tests (New Zealand v. *France)*	1973-1974
Trial of Pakistani Prisoners of War (Pakistan v. *India)*	1973
Aegean Sea Continental Shelf (Greece v. *Turkey)*	1976-1978
Continental Shelf (Tunisia/Libyan Arab Jamahiriya)	1978-1982
United States Diplomatic and Consular Staff in Tehran (United States of America v. *Iran)*	1979-1981
Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) [case referred to a Chamber]	1981-1984
Continental Shelf (Libyan Arab Jamahiriya/Malta)	1982-1985
Frontier Dispute (Burkina Faso/Republic of Mali) [case referred to a Chamber]	1983-1986
Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. *United States of America)*	1984-1991
Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya)*	1984-1985
Border and Transborder Armed Actions (Nicaragua v. *Costa Rica)*	1986-1987
Border and Transborder Armed Actions (Nicaragua v. *Honduras)*	1986-1992

Title	*Dates*
Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) [case referred to a Chamber][1]	1986-1992
Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)* [case referred to a Chamber]	1987-1989
Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway)*	1988-1993
Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America)*	1989-
Certain Phosphate Lands in Nauru (Nauru v. *Australia)*	1989-1993
Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal)*	1989-1991
Territorial Dispute (Libyan Arab Jamahiriya/Chad)	1990-1994
East Timor (Portugal v. *Australia)*	1991-
Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. *Senegal)*	1991-
Passage through the Great Belt (Finland v. *Denmark)*	1991-1992
Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*	1991-
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)*	1992-
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America)*	1992-
Oil Platforms (Islamic Republic of Iran v. *United States of America)*	1992-
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia (Serbia and Montenegro))*	1993-
Gabčikovo-Nagymaros Project (Hungary/Slovakia)	1993-
Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria)*	1994-
Fisheries Jurisdiction (Spain v. *Canada)*	1995-
(b) Advisory	
Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter)	1947-1948
Reparation for Injuries Suffered in the Service of the United Nations	1948-1949

[1] The intervention of Nicaragua was admitted on 13 September 1990 (see *I.C.J. Yearbook 1990-1991*, pp. 160-174).

Title	*Dates*
Interpretation of Peace Treaties with Bulgaria, Hungary and Romania	1949-1950
Competence of the General Assembly for the Admission of a State to the United Nations	1949-1950
International Status of South West Africa	1949-1950
Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide	1950-1951
Effect of Awards of Compensation Made by the United Nations Administrative Tribunal	1953-1954
Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa	1954-1955
Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco	1955-1956
Admissibility of Hearings of Petitioners by the Committee on South West Africa	1955-1956
Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization	1959-1960
Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)	1961-1962
Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)	1970-1971
Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal	1972-1973
Western Sahara	1974-1975
Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt	1980
Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal	1981-1982
Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal	1984-1987
Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947	1988
Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations	1989
Legality of the Use by a State of Nuclear Weapons in Armed Conflict	1993-
Legality of the Threat or Use of Nuclear Weapons	1994-

CHAPTER I

ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

I. Members of the Court

1. Composition of the Court[1]

The Court consists of 15 Members (Statute, Art. 3, para. 1).
On 31 July 1995 the composition of the Court was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President M. Bedjaoui	Algeria	5 February 1997[2]
Vice-President S. M. Schwebel	United States	5 February 1997[2]
Judges S. Oda	Japan	5 February 2003
G. Guillaume	France	5 February 2000
M. Shahabuddeen	Guyana	5 February 1997
A. Aguilar-Mawdsley	Venezuela	5 February 2000
C. G. Weeramantry	Sri Lanka	5 February 2000
R. Ranjeva	Madagascar	5 February 2000
G. Herczegh	Hungary	5 February 2003
Shi Jiuyong	China	5 February 2003
C.-A. Fleischhauer	Germany	5 February 2003
A. G. Koroma	Sierra Leone	5 February 2003
V. S. Vereshchetin	Russian Federation	5 February 1997[3]
L. Ferrari Bravo	Italy	5 February 1997[4]
R. Higgins	United Kingdom	5 February 2000[5]

[1] For the composition of chambers, see pp. 17-18, below.

[2] The terms of office of Judges Bedjaoui and Schwebel as President and Vice-President respectively expire in 1997.

[3] Judge Vereshchetin was elected to fill the vacancy caused by the death, on 28 September 1994, of Judge Tarassov (see p. 9, below).

[4] Judge Ferrari Bravo was elected to fill the vacancy caused by the death, on 24 February 1995, of Judge Ago (see p. 9 below).

[5] Judge Higgins was elected to fill the vacancy caused by the resignation, effective 10 July 1995, of Judge Sir Robert Jennings (see p. 9 below).

The Members of the Court are elected for nine years, one-third of the total number of judges being elected every three years; they may be re-elected (Statute, Art. 13). In the event of a vacancy, an election is held and the new judge holds office for the remainder of his predecessor's term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948; see Chap. III, p. 65, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age; Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

2. Changes in the Composition of the Court in 1994-1995[1]

On 28 September 1994, Judge Nikolai K. Tarassov, who had been a Member of the Court since 1985, died. On 26 January 1995, the General Assembly and Security Council of the United Nations elected Mr. Vladlen S. Vereshchetin to fill the resulting vacancy. His term of office thus extends to 5 February 1997.

On 24 February 1995, Judge Roberto Ago, who had been a Member of the Court since 1979 and President of the Chamber of the Court formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area* from 1981 to 1984, died. On 21 June 1995 the General Assembly and Security Council elected Mr. Luigi Ferrari Bravo to fill the resulting vacancy. His term of office thus extends also to 5 February 1997. The following had also been candidates in the elections: Messrs. M. Güney, P. H. Kooijmans and S. Torres Bernárdez.

Effective 10 July 1995, Judge Sir Robert Yewdall Jennings, who had been a Member of the Court since 1982 and its President from 1991 to 1994, resigned. On 12 July 1995, the General Assembly and Security Council elected Mrs. Rosalyn Higgins to fill the resulting vacancy. Her term of office thus extends to 5 February 2000.

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[1] In *I.C.J. Yearbook 1992-1993* (p. 10), Mr. Krzysztof Skubiszewski was erroneously mentioned as a candidate in the election of 10 May 1993 to fill the vacancy resulting from the death of Judge Lachs. Mr. Skubiszewski had in fact withdrawn his candidature before the voting took place.

3. Former Presidents and Vice-Presidents and Former Members of the Court

The following judges served as President or Vice-President before the present holders of those offices:

1946-1949, J. G. Guerrero and J. Basdevant;

1949-1952, J. Basdevant and J. G. Guerrero[1];

1952-1955, Sir Arnold McNair and J. G. Guerrero[1];

1955-1958, G. H. Hackworth and A. H. Badawi[2];

1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;

1961-1964, B. Winiarski and R. J. Alfaro;

1964-1967, Sir Percy Spender and V. K. Wellington Koo;

1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;

1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun;

1973-1976, M. Lachs and F. Ammoun[3];

1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;

1979-1982, Sir Humphrey Waldock[4] and T. O. Elias[5];

1982-1985, T. O. Elias[6] and J. Sette-Camara;

1985-1988, Nagendra Singh and G. Ladreit de Lacharrière[7];

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[1] While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel (United Kingdom* v. *Albania); Protection of French Nationals and Protected Persons in Egypt (France* v. *Egypt); Rights of Nationals of the United States of America in Morocco (France* v. *United States of America); Ambatielos (Greece* v. *United Kingdom); Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Minquiers and Ecrehos (France/United Kingdom); Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America).*

[2] While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel (Switzerland* v. *United States of America), Interim Protection,* and *Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria).*

[3] While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal Relating to the Jurisdiction of the ICAO Council, Nuclear Tests (Australia* v. *France), Interim Protection,* and *Nuclear Tests (New Zealand* v. *France), Interim Protection.*

[4] Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

[5] Vice-President Elias was for a time Acting President in *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America).*

[6] Judge Elias continued to act as President in *Continental Shelf (Libyan Arab Jamahiriya/Malta)* after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.

[7] Judge Ladreit de Lacharrière died on 10 March 1987. On 6 May 1987 the Court elected Judge Mbaye to be its Vice-President for the remainder of his predecessor's term.

1988-1991, J. M. Ruda and K. Mbaye;

1991-1994, Sir Robert Jennings[1] and S. Oda[1].

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	Country	*Period of Office*
* R. Ago	Italy	1979-1995
Prince B. A. Ajibola	Nigeria	1991-1994
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965
* J. Basdevant	France	1946-1964
* R. R. Baxter	United States	1979-1980
* C. Bengzon	Philippines	1967-1976
* J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Córdova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* T. O. Elias	Nigeria	1976-1991
J. Evensen	Norway	1985-1994
* I. Fabela	Mexico	1946-1952
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973
* I. Forster	Senegal	1964-1982
* S. A. Golunsky	USSR	1952-1953
A. Gros	France	1964-1984
* J. G. Guerrero	El Salvador	1946-1958

[1] While he was President of the Court, Sir Robert Jennings, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)*. Vice-President Oda exercised the functions of the Presidency in that case, as well as in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*. (See *I.C.J. Yearbook 1991-1992*, p. 198.)

* G. H. Hackworth	United States	1946-1961
* Hsu Mo	China	1946-1956
* L. Ignacio-Pinto	Benin	1970-1979
Sir Robert Yewdall Jennings	United Kingdom	1982-1995
* P. C. Jessup	United States	1961-1970
* E. Jiménez de Aréchaga	Uruguay	1970-1979
* H. Klaestad	Norway	1946-1961
F. I. Kojevnikov	USSR	1953-1961
* V. M. Koretsky	USSR	1961-1970
* S. B. Krylov	USSR	1946-1952
* M. Lachs	Poland	1967-1993
* G. Ladreit de Lacharrière	France	1982-1987
* Sir Hersch Lauterpacht	United Kingdom	1955-1960
* Sir Arnold McNair	United Kingdom	1946-1955
K. Mbaye	Senegal	1982-1991
* G. Morelli	Italy	1961-1970
* L. M. Moreno Quintana	Argentina	1955-1964
* P. D. Morozov	USSR	1970-1985
H. Mosler	Fed. Rep. of Germany	1976-1985
* Nagendra Singh	India	1973-1988
Ni Zhengyu	China	1985-1994
C. D. Onyeama	Nigeria	1967-1976
* L. Padilla Nervo	Mexico	1964-1973
R. S. Pathak	India	1989-1991
* S. Petrén	Sweden	1967-1976
* Sir Benegal Rau	India	1952-1953
* J. E. Read	Canada	1946-1958
* J. M. Ruda	Argentina	1973-1991
J. Sette-Camara	Brazil	1979-1988
* Sir Percy C. Spender	Australia	1958-1967
* J. Spiropoulos	Greece	1958-1967
* K. Tanaka	Japan	1961-1970
* N. K. Tarassov	Russian Federation	1985-1995
* S. Tarazi	Syria	1976-1980
* Sir Humphrey Waldock	United Kingdom	1973-1981
* V. K. Wellington Koo	China	1957-1967
* B. Winiarski	Poland	1946-1967
* Sir Muhammad Zafrulla Khan	Pakistan	1954-1961 and 1964-1973
* M. Zoričić	Yugoslavia	1946-1958

II. Judges *Ad Hoc*

If in a case the Court, or a chamber of the Court, includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge; similarly, if the Court or the chamber includes upon the Bench no judge of the nationality of the parties, each of these parties may choose a judge (Statute, Art. 31; Rules, Arts. 7-8, Art. 17, para. 2, Arts. 35-37, Art. 91, para. 2, and Art. 102, para. 3). Should there be several parties in the same interest they are reckoned for this purpose as one party only (Statute, Art. 31, para. 5; Rules, Art. 36 and Art. 37, para. 2).

Since the institution of the Court, judges *ad hoc* have been chosen in the following cases (unless otherwise indicated, they held the nationality of the appointing party):

Corfu Channel (United Kingdom v. *Albania)*. Albania chose Mr. I. Daxner (Czechoslovakia), who sat upon the Bench when the preliminary objection was heard, and Mr. B. Ečer (Czechoslovakia), who sat when the case was heard on the merits and also for the assessment of amount of compensation.

Asylum (Colombia/Peru), Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. *Peru)* and *Haya de la Torre (Colombia* v. *Peru)*. Mr. J. J. Caicedo Castilla was chosen by Colombia and Mr. L. Alayza y Paz Soldán by Peru.

Ambatielos (Greece v. *United Kingdom)*. Mr. J. Spiropoulos was chosen by Greece.

Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*. Mr. K. Sandjabi was chosen by Iran.

Nottebohm (Liechtenstein v. *Guatemala)*. Mr. C. García Bauer[1] was chosen by Guatemala and Mr. P. Guggenheim (Switzerland) by Liechtenstein.

Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*. Mr. G. Morelli was chosen by Italy.

Right of Passage over Indian Territory (Portugal v. *India)*. Mr. M. Fernandes was chosen by Portugal and the Hon. M. A. C. Chagla by India.

Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*. Mr. J. Offerhaus was chosen by the Netherlands and Mr. F. J. C. Sterzel by Sweden.

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[1] The Government of Guatemala had first chosen as judge *ad hoc* Mr. J. C. Herrera and subsequently Mr. J. Matos, before choosing Mr. García Bauer.

Interhandel (Switzerland v. *United States of America)*. Mr. P. Carry was chosen by Switzerland.

Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*. Mr. Justice Goitein was chosen by Israel and Mr. J. Žourek (Czechoslovakia) by Bulgaria.

Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*[1]. Mr. J. Žourek (Czechoslovakia) was chosen by Bulgaria.

Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*. Mr. R. Ago (Italy) was chosen by Honduras and Mr. F. Urrutia Holguín (Colombia) by Nicaragua.

Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*[1]. Mr. W. J. Ganshof van der Meersch was chosen by Belgium and Mr. F. de Castro by Spain.

South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa)*. Sir Louis Mbanefo (Nigeria)[2] was chosen by Ethiopia and Liberia and the Hon. J. T. van Wyk by South Africa.

Northern Cameroons (Cameroon v. *United Kingdom)*. Mr. P. Beb a Don was chosen by Cameroon.

Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain)*. Belgium chose Mr. W. J. Ganshof van der Meersch, who sat upon the Bench when the preliminary objections were heard, and Mr. W. Riphagen (Netherlands), who sat in the second phase. Spain chose Mr. E. C. Armand-Ugon (Uruguay).

North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands). Mr. H. Mosler was chosen by the Federal Republic of Germany and Mr. M. Sørensen (Denmark) by Denmark and the Netherlands.

Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan)*. Mr. Nagendra Singh was chosen by India.

Nuclear Tests (Australia v. *France)*. Sir Garfield Barwick was chosen by Australia.

Nuclear Tests (New Zealand v. *France)*. Sir Garfield Barwick (Australia) was chosen by New Zealand.

Trial of Pakistani Prisoners of War (Pakistan v. *India)*. Pakistan chose Sir Muhammad Zafrulla Khan, who sat in the proceedings on the

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[1] Case removed from the list before the Court had occasion to sit.

[2] The Governments of Ethiopia and Liberia had first chosen as judge *ad hoc* the Hon. J. Chesson, subsequently Sir Muhammad Zafrulla Khan and then Sir Adetokunboh A. Ademola, before choosing Sir Louis Mbanefo.

request for interim measures up to 2 July 1973, and Mr. Muhammad Yaqub Ali Khan[1].

Western Sahara. Mr. A. Boni (Ivory Coast) was chosen by Morocco.

Aegean Sea Continental Shelf (Greece v. *Turkey).* Mr. M. Stassinopoulos was chosen by Greece.

Continental Shelf (Tunisia/Libyan Arab Jamahiriya). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya and Mr. J. Evensen (Norway) by Tunisia.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (case referred to a Chamber). Mr. M. Cohen was chosen by Canada.

Continental Shelf (Libyan Arab Jamahiriya/Malta). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya. Mr. J. Castañeda (Mexico) was chosen by Malta and sat in the proceedings culminating in the Judgment on Italy's application for permission to intervene. Mr. N. Valticos (Greece) was chosen by Malta to sit when the case was heard on the merits.

Frontier Dispute (Burkina Faso/Republic of Mali) (case referred to a Chamber). Mr. F. Luchaire (France) was chosen by Burkina Faso and Mr. G. Abi-Saab (Egypt) by the Republic of Mali.

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. *United States of America).* Mr. C.-A. Colliard (France) was chosen by Nicaragua.

Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya).* Mrs. S. Bastid (France) was chosen by Tunisia and Mr. E. Jiménez de Aréchaga (Uruguay) by the Libyan Arab Jamahiriya.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (case referred to a Chamber). Mr. N. Valticos (Greece) was chosen by El Salvador and Mr. M. Virally (France) was chosen by Honduras. Following the death of Mr. Virally, Mr. S. Torres Bernárdez (Spain) was chosen by Honduras.

Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway).* Mr. P. H. Fischer was chosen by Denmark.

Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America).* Mr. M. Aghahosseini has been chosen by the Islamic Republic of Iran.

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[1] This case was removed from the list before the Court had occasion to hear argument on the question of its jurisdiction.

Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal)*. Mr. H. Thierry (France) was chosen by Guinea-Bissau. Following the expiry of Judge Mbaye's term of office on 5 February 1991 Senegal no longer had a judge of its nationality on the bench. It therefore chose Mr. K. Mbaye to sit as judge *ad hoc*.

Territorial Dispute (Libyan Arab Jamahiriya/Chad). Mr. J. Sette-Camara (Brazil) was chosen by the Libyan Arab Jamahiriya and Mr. G. M. Abi-Saab (Egypt) by Chad.

East Timor (Portugal v. *Australia)*. Mr. A. de Arruda Ferrer-Correia was chosen by Portugal. Following his resignation, on 14 July 1994, Mr. K. J. Skubiszewski (Poland) has been chosen by Portugal. Sir Ninian Stephen has been chosen by Australia.

Passage through the Great Belt (Finland v. *Denmark)*. Mr. B. Broms was chosen by Finland and Mr. P. H. Fischer by Denmark.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*. Mr. J. M. Ruda (Argentina) was chosen by Qatar. Following the death of Mr. Ruda, Mr. S. Torres Bernárdez (Spain) was chosen by Qatar. Mr. N. Valticos (Greece) was chosen by Bahrain. He resigned for health reasons as from the end of the jurisdiction and admissibility phase of the case.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)*. Mr. A. S. El-Kosheri (Egypt) has been chosen by the Libyan Arab Jamahiriya.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America)*. Mr. A. S. El-Kosheri (Egypt) has been chosen by the Libyan Arab Jamahiriya.

Oil Platforms (Islamic Republic of Iran v. *United States of America)*. Mr. F. Rigaux (Belgium) has been chosen by the Islamic Republic of Iran.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia (Serbia and Montenegro))*. Mr. E. Lauterpacht (United Kingdom) has been chosen by Bosnia and Herzegovina and Mr. M. Kreća by Yugoslavia (Serbia and Montenegro).

Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria)*. Mr. K. Mbaye has been chosen by Cameroon and Prince B. A. Ajibola by Nigeria.

Gabčikovo-Nagymaros Project (Hungary/Slovakia). Mr. K. J. Skubiszewski (Poland) has been chosen by Slovakia.

III. Chambers

1. Chamber of Summary Procedure

The Statute (Art. 29) provides that, with a view to the speedy despatch of business, the Court shall form annually a Chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. The Court also selects two judges for this Chamber for the purpose of replacing judges who find it impossible to sit. Under Article 15 of the Rules of Court, the President and Vice-President are members of this Chamber ex officio, the other members and the substitutes being elected. The Chamber of Summary Procedure has never as yet been called upon to meet.

The Chamber of Summary Procedure is at present composed as follows: President Bedjaoui; Vice-President Schwebel; Judges Shahabuddeen, Aguilar-Mawdsley and Vereshchetin, members; Judges Shi and Koroma, substitute members.

2. Chambers Provided for in Article 26, Paragraph 1, of the Statute

The Statute (Art. 26, para. 1) provides also that the Court may from time to time form one or more chambers, composed of three or more judges, as the Court may determine, for dealing with particular categories of cases: for example, labour cases and cases relating to transit and communications. Cases are heard and determined by these chambers if the parties so request.

In the past the Court has considered the question of the possible formation of a chamber to deal with environmental matters. On those occasions it took the view that it was not yet necessary to set up a standing special chamber, emphasizing that it was able to respond rapidly to requests for the constitution of a so-called *"ad hoc"* chamber (pursuant to Article 26, paragraph 2, of the Statute) which could deal also with any environmental case.

In view of the developments in the field of environmental law and protection which have taken place in the last few years, and considering that it should be prepared to the fullest possible extent to deal with any environmental case falling within its jurisdiction, the Court, in July 1993, deemed it appropriate to establish a seven-member Chamber for Environmental Matters. The Chamber is at present composed as follows: Judge Bedjaoui, President of the Court; Judge Schwebel, Vice-President of the Court; and Judges Shahabuddeen, Weeramantry, Ranjeva, Herczegh and Fleischhauer.

The term of office of the members of the Chamber has been extended by the Court until 5 February 1997.

3. Chambers Formed under Article 26, Paragraph 2, of the Statute

The Statute (Art. 26, para. 2) provides that the Court may form a chamber for dealing with a particular case, the number of judges consti-

tuting such a chamber being determined by the Court with the approval of the parties.

Chambers of this kind have been formed at the joint request of the parties to deal with four cases. They are listed below with an indication of the date on which the respective Chamber was constituted and the names of its members.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America): constituted on 20 January 1982; Judges Ago *(President)*, Gros, Mosler, Schwebel; Judge *ad hoc* Cohen.

Frontier Dispute (Burkina Faso/Republic of Mali): constituted on 3 April 1985; Judges Bedjaoui *(President)*, Lachs, Ruda; Judges *ad hoc* Luchaire, Abi-Saab.

Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)*: constituted on 2 March 1987 with the following composition – Judges Nagendra Singh *(President)*, Oda, Ago, Schwebel, Sir Robert Jennings. Following the death of Judge Nagendra Singh the Court, on 20 December 1988, elected President Ruda to succeed him as member and (ex officio) President of the Chamber.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua [as from 13 September 1990] *intervening)*: constituted on 8 May 1987 with the following composition – Judges Oda, Sette-Camara, Sir Robert Jennings; Judges *ad hoc* Valticos, Virally. The Chamber elected Judge Sette-Camara to be its President. After the death of Judge Virally, Mr. Torres Bernárdez was chosen to sit as judge *ad hoc* in his place, and on 13 December 1989 the Court declared the Chamber to be composed as follows: Judges Sette-Camara *(President)*, Oda, Sir Robert Jennings; Judges *ad hoc* Valticos, Torres Bernárdez. On 7 February 1991 Judges Sir Robert Jennings and Oda exchanged places in the order of precedence within the Chamber owing to their election to be, respectively, the Court's President and Vice-President.

4. Provisions in the Rules relating to Chambers

Articles 15-18 and 90-93 of the Rules of Court contain the provisions relating to chambers.

IV. Assessors

Article 30, paragraph 2, of the Statute and Article 9 of the Rules of Court provide that the Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it, without the right to vote. The chambers also have the power to appoint assessors.

These provisions have not been applied up to the present.

V. The Registrar

The Court appoints its Registrar (Statute, Art. 21, para. 2; Rules, Art. 22).

The present Registrar is Mr. Eduardo Valencia-Ospina (see Chap. V, p. 140, below).

VI. Privileges and Immunities

Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 5*, pp. 200-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (*ibid.*, pp. 210-213).

By resolution 90 (1) of 11 December 1946 (*ibid.*, pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that ". . . if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that "... judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

CHAPTER II

BIOGRAPHIES OF JUDGES

Biographies of judges who held office in the period 1 August 1994 to 31 July 1995 will be found below.

I. Members of the Court on 31 July 1995

President Mohammed Bedjaoui

(Member of the Court since 19 March 1982; re-elected as from 6 February 1988; President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987; President of the Court since February 1994)

Born at Sidi-Bel-Abbes, Algeria, on 21 September 1929.
Doctor of Law.
Diploma of the Institute of Political Studies (University of Grenoble).
"Avocat stagiaire" at the Court of Appeal of Grenoble (1951-1953).
Research Assistant at the Centre national de la recherche scientifique (CNRS), France (1956-1958).
Legal Adviser to the Provisional Government of the Republic of Algeria (1958-1961). Expert adviser to the Algerian delegation in the independence negotiations at Evian and Lugrin.
Executive Secretary to the President of the National Constituent Assembly at Algiers (1962).
Secretary-General of the Government (1962-1964).
Dean of the Faculty of Law and Economics of the University of Algiers (1964-1965).
Minister of Justice and Keeper of the Seals (1964-1970).
Algerian Ambassador to France (1970-1979).
Permanent delegate of Algeria to Unesco (1971-1979).
Ambassador and Permanent Representative of Algeria to the United Nations in New York (1979-1982).
Co-President of the United Nations Commission of Enquiry to Iran (February-March 1980).
Vice-President of the United Nations Council for Namibia (1979-1982).
Chairman of the Group of 77 (1981-1982).
Chairman of the Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries.
Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea and Guinea-Bissau (1983-1985).
Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea-Bissau and Senegal (1985-1989).

Arbitrator or President in several international commercial arbitrations.
Participated in various sessions of the United Nations General Assembly as member, deputy-head or head of the Algerian delegation.
Head of the Algerian delegations to the United Nations Conferences on Succession of States in Respect of Treaties (1977) and the Law of the Sea (1976-1980).
Took part in various sessions of the OAU Council of Ministers and OAU Summit Meetings, and in various ministerial meetings or conferences of heads of State and government of the non-aligned countries, as member, deputy-head or head of the Algerian delegation.
United Nations Consultant Expert at the Vienna Conference on Succession of States in respect of State Property, Archives and Debts (1983).
Member of the International Law Commission (1965-1982).
Member of the Institute of International Law.
Member of the French Society for International Law.
Member of the Scientific Council of the Institut du droit économique de la mer of the Principality of Monaco.
Member of the Governing Board of the Foundation for International Studies of the University of Malta, Valletta.
Member of the Independent Commission on International Humanitarian Issues (co-chaired by Prince Hassan bin Talal of Jordan and Prince Sadruddin Agha Khan).
Member of several award panels for international prizes, including that of the Albert Schweitzer Prize (United States of America).
Member of the Jury for the Félix Houphouët-Boigny Peace Prize (Unesco).
Member of the Unesco *Ad Hoc* Forum for Reflection.
Member of the Unesco International Consultative Committee on Bioethics.
Member of the International Committee of Advisers of the Chinese International Law Institute, Beijing.
Recipient of various prizes and honours.
Holder of several decorations.
Author of numerous works and articles.

Vice-President Stephen M. SCHWEBEL

(Member of the Court since 15 January 1981; re-elected as from 6 February 1988; member of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, 1981-1984, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; Vice-President of the Court since February 1994)

Born in New York City, on 10 March 1929.

Harvard University, B.A. *magna cum laude* with highest honours in government (1950); Cambridge University, studies in international law

(1951); LL.B., Yale Law School (1954). Doctor *honoris causa*, Bhopal University, India (1982).

Admitted to the Bar of the State of New York (1955); of the Supreme Court of the United States (1965); and of the District of Columbia (1976).

Attorney, White & Case, New York (1954-1959).

Assistant Professor of Law, Harvard University (1959-1961).

Professor of International Law and subsequently Edward B. Burling Professor of International Law and Organization, the School of Advanced International Studies, The Johns Hopkins University, Washington, D.C. (1967-1981). Visiting lecturer or professor at Cambridge University (1957, 1983); the Australian National University (1969); the Hague Academy of International Law (1972); the Graduate Institute of International Studies, Geneva (1980); and at other universities or institutes in the United States and elsewhere.

Assistant Legal Adviser, Department of State (1961-1966); Special Assistant to the Assistant Secretary of State for International Organization Affairs (1966-1967); Consultant to the Department of State (1967-1973). Counselor on International Law, Department of State (1973-1974); Deputy Legal Adviser, Department of State (1974-1981).

Legal Adviser to the United States delegation, and Alternate Representative in the Sixth Committee, during sessions of the United Nations General Assembly (1961-1965). United States representative and chairman of the United States delegation to various committees of the United Nations, including the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (1964); the Special Committee on the Question of Defining Aggression (1971); and the UNCTAD Working Group on a Charter of Economic Rights and Duties of States (1973-1974).

Member of the International Law Commission of the United Nations (1977-1981). Chairman of the Drafting Committee (1978); Special Rapporteur on the Law of the Non-Navigational Uses of International Watercourses (1977-1981).

Participated as Associate Representative, Representative, Counsel or Deputy Agent of the United States in various cases before the International Court of Justice (between 1962 and 1980). Member of the Board of Arbitration in *British Petroleum Company* v. *Iran and the National Iranian Oil Company* (1982-1985) and arbitrator or president in other international commercial arbitrations (since 1988).

Executive Vice-President and Executive Director of the American Society of International Law (1967-1973). Honorary Vice-President (since 1983).

President of the Administrative Tribunal of the International Monetary Fund (since January 1994).

Member of the Board of Editors, *American Journal of International Law* (1967-1981). Chairman of the Editorial Advisory Committee, *International Legal Materials* (1967-1973).

Member of the Institute of International Law; the American Society of International Law; the American Branch of the International Law Association; the American Bar Association; and the Council on Foreign Relations. Honorary Member of the Indian Society of International Law. Member of the International Advisory Committee of the Cambridge University Research Centre in International Law; the Board of Electors of the Whewell Professorship of International Law of Cambridge University; and the Board of Overseers' Committee to Visit the Harvard Law School. Chairman of the Supervisory Board of the Telders International Law Moot Court Competition.

Author of *The Secretary-General of the United Nations: His Political Powers and Practice*, 1952; *The Effectiveness of International Decisions*, 1971 (as editor); "Aggression, Intervention and Self-Defence in Modern International Law", *Recueil des cours*, Hague Academy of International Law, 1972; reports to the International Law Commission on the law of the non-navigational uses of international watercourses; *International Arbitration: Three Salient Problems* (1987); *Justice in International Law* (1994); and some one hundred articles, notes and book reviews in legal and other publications. Research and drafting assistant to United Nations Secretary-General Trygve Lie in the writing of *In the Cause of Peace*, 1954.

Judge Shigeru ODA

(Member of the Court since 6 February 1976; re-elected as from 6 February 1985 and from 6 February 1994; member of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, 1986-1992, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; Vice-President of the Court from 1991 to 1994; Acting President in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*)

Born on 22 October 1924.

Law degree, University of Tokyo (1947). Doctor of Law (JSD), Yale University (1953). Doctor of Law, University of Tôhoku (1962). Doctor *honoris causa* of the Bhopal University, India (1980), and of the New York Law School (1981).

Presently Professor Emeritus of the Tôhoku University (since 1985) and Member of the Japan Academy (since 1994).

Research Fellow in international law, University of Tokyo (1947-1949).

Lecturer (1950-1953), Associate Professor (1953-1959) and Professor (1959-1976) at Tôhoku University. Technical Adviser to the Atomic Energy Commission (1961-1964) and to the Council for Marine Science and Technology in the Prime Minister's Office (1968-1971). Special Assistant to the Minister for Foreign Affairs (1973-1976). Member of the Science Council of the Ministry of Education (1969-1976), of the Council for Ocean Development in the Prime Minister's Office (1971-1976), and of the Advisory Committee for Co-operation with the United Nations University (1971-1976).

Delegate to the United Nations Conferences on the Law of the Sea (1958, 1960 and 1973-1975); member of the United Nations Group of Experts on Marine Science and Technology (1967-1968); Alternate Representative of Japan on the United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor (1968-1973); Legal Consultant to the ESCAP Committee for Co-ordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (1969, 1972 and 1975). Member of the panel of the International Atomic Energy Agency on the Legal Implications of the Disposal of Radio-active Waste into the Sea (1961-1963) and of the Agency's group of experts for the Study of the Character and Purpose of Appropriate Observation of Peaceful Nuclear Explosions (1970). Representative of Japan at the sixth General Conference of the Inter-Governmental Oceanographic Commission (1969); Chairman of the Working Group on Legal Questions related to Scientific Investigations of the Ocean (1968-1975). Alternate Member of the Asian-African Legal Consultative Committee (1971-1975).

Counsel for the Federal Republic of Germany before the International Court of Justice in the *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* cases (1968).

Member of the Executive Councils of the Japanese Society of International Law and of the Japanese branch of the International Law Association. Associate (1969) and Member (1979) of the Institute of International Law. Honorary life Member of the American Society of International Law (1975). Honorary Member of the Indian Society of International Law. Member of the Curatorium of the Hague Academy of International Law (since 1987); Member of the Curatorium of the Institute of International Public Law and International Relations (Thessaloniki).

Editor-in-chief of the *Japanese Annual of International Law* (1973-1977). General editor for *Publications on Ocean Development* and *International Law in Japanese Perspective* of Martinus Nijhoff Publications.

Lecturer on the "International Law of the Resources of the Sea" and on "The International Court of Justice Viewed from the Bench (1976-1993)" at the Hague Academy of International Law (*Recueil des cours*, Vol. 127, 1969, and Vol. 244, 1993).

Publications: in English – *International Control of Sea Resources*, reprinted edition with a new introduction, 1989; *The International Law of the Ocean Development* (4 vols.), 1972-1979; *The Law of the Sea in Our*

Time (2 vols.), 1977; *International Law of the Resources of the Sea*, reprinted edition with supplement (1979); *The Practice of Japan in International Law 1961-1970* (edited with H. Owada), 1982; in Japanese – *International Law of the Sea* (1956, revised ed. 1969); *International Law of Marine Resources* (3 vols.), 1971-1975; *Judicial Decisions of the Japanese Courts involving International Law* (edited with T. Sogawa), 1978, revised and updated edition, 1991; *The Law of the Sea*, Vol. I, 1979; *The Law of the Sea: 25 Years of Recollections*, 1981; *Treaties and Conventions* (edited with Y. Ishimoto), 1983, revised ed., 1992; *Commentary on the United Nations Convention on the Law of the Sea*, Vol. I, 1985; *The International Court of Justice*, 1987; *A Collection of Essays on the Law of the Sea*, 1989; and various articles on international law in English and in Japanese.

Judge Gilbert GUILLAUME

(Member of the Court since 14 September 1987; re-elected as from 6 February 1991)

Born at Bois-Colombes, France, on 4 December 1930.

Licence (Bachelor's degree) in law, University of Paris. Diplôme from the Paris Institute of Political Studies; Diplôme d'études supérieures d'économie politique et de science économique (Diploma of Advanced Studies in Political Economy and Economic Science), University of Paris.

Alumnus of the Ecole nationale d'administration.

Member of the Council of State, as Auditeur (1957), then Maître des Requêtes (1963), and most recently Councillor of State (1981).

Legal Adviser to the State Secretariat for Civil Aviation (1968-1979); French Representative on the Legal Committee of the International Civil Aviation Organization (ICAO) (1968-1979) and Chairman of the Committee (1971-1975); delegate to the diplomatic conferences on the suppression of the unlawful seizure of aircraft (The Hague, 1970), the suppression of unlawful acts against the safety of civil aircraft (Montreal, 1971) and air safety (Rome, 1973); President of the Diplomatic Conference on the Liability of the Carrier (Montreal, 1975); Head of the French delegations to the diplomatic conferences on the liability of the carrier vis-à-vis third parties (Montreal, 1978) and the non-use of force against civil aircraft (Montreal, 1984).

Chairman of the Conciliation Commission, Organisation for Economic Co-operation and Development (1973-1978); Member of the European Space Agency Appeals Board (1975-1978); Director of Legal Affairs, Organisation for Economic Co-operation and Development (1979).

Director of Legal Affairs, Ministry of Foreign Affairs (1979-1987).

Counsel for France in the arbitration proceedings between France and the United States over the Franco-American air agreement (1978); Agent

for France in the arbitration proceedings between France and Canada over the Franco-Canadian fisheries agreement (1986); Agent for France in numerous cases before the Court of Justice of the European Communities and the European Commission and Court of Human Rights. French Representative on the Central Commission for the Navigation of the Rhine (1979-1987); Chairman of the Commission (1981-1982); French Representative on the Asian-African Legal Consultative Committee (1980-1987).

French delegate to the General Assembly of the United Nations (Sixth Committee) (1982-1987); Head of the French delegation to the Third United Nations Conference on the Law of the Sea (1982), the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Vienna, 1983) and the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 1986).

Member of the Permanent Court of Arbitration (since 1980). Member of the Court of Arbitration of the Organization for Security and Co-operation in Europe (OSCE). Designated arbitrator by the International Telecommunications Satellite Organization and by the International Civil Aviation Organization, the International Chamber of Commerce and the International Centre for the Settlement of Investment Disputes (ICSID).

President of the French branch of the International Law Association (ILA). Vice-President of the French Society for International Law. Honorary Chairman of the French Society for Air and Space Law. Member of the International Institute of Law of the French-speaking Countries (IDEF). Member of the Académie de marine. Member of the Académie de l'air et de l'espace. Member of the International Academy of Comparative Law. Member of the Scientific Board of the *Revue générale de droit international public* and of the Board of Directors of the *Annuaire français de droit international*. Chairman of the Board of Directors of the *Revue française de droit aérien et spatial*.

Author of numerous works and articles. Has given a course on "Terrorism and International Law" at the Hague Academy of International Law ("Terrorisme et droit international", *Recueil des cours*, 1989). Author of a work on *Les grandes crises internationales et le droit* (1994).

Judge Mohamed SHAHABUDDEEN

(Member of the Court since 6 February 1988)

Born at Vreed-en-Hoop, Demerara, Guyana, on 7 October 1931.

Bar Finals, London Inns of Court (1952). Called to the Bar, Middle Temple, London (1954). Queen's Counsel (1966). London University degrees – LL.B., B.Sc. (Econ.), LL.M., Ph.D., LL.D. Also LL.D. *honoris causa* of the University of the West Indies.

Private practice (1954-1959) followed by public legal service. Magistrate (1959). Crown Counsel (1959-1962). Solicitor General (1962-1973). Attorney General (1973-1987). Minister of Justice (1978-1987). Other ministerial appointments, including Acting Foreign Minister from time to time (1980-1987).

Member of various Guyana delegations on bilateral missions to other countries (1962-1987). Also member of various Guyana delegations to other international meetings, including: United Nations General Assembly (1972); United Nations Conference on Succession of States in respect of Treaties, Vienna (1977); Commonwealth Heads of Government Meetings, Lusaka (1979), Melbourne (1981), New Delhi (1983), Nassau (1985) and Vancouver (1987); the Cancun North/South Summit (1981); the General Assembly of the Organization of American States, St. Lucia (1981); Meetings of Ministers of Foreign Affairs of Non-Aligned Countries, Georgetown (1972) and New Delhi (1981); Meeting of the Co-ordinating Bureau of the Movement of Non-Aligned Countries, Algiers (1981); the Conference of Heads of State or Government of Non-Aligned Countries, New Delhi (1983); the Commonwealth Caribbean Heads of Government Meetings, Ocho Rios (1982), Port of Spain (1983), Nassau (1984), Georgetown (1986) and St. Lucia (1987); the Commonwealth Law Ministers Meetings at Lagos (1975), Barbados (1980), Sri Lanka (1983) and Harare (1986); and the Commonwealth Law Conference, Hong Kong (1983).

Member of the Board of Governors of the University of Guyana (1963-1965). Member of the Council of Legal Education of the Commonwealth Caribbean (1973-1987). Member of the Commonwealth Association of Legislative Counsel (1983).

Associate Member of the Institute of International Law. Headquarters Member of the International Law Association. Member of the Société française pour le droit international. Member of the American Society of International Law. Honorary Life Member of the Indian Society of International Law. Associate Member of the International Academy of Comparative Law. Member of the Advisory Board, *European Journal of International Law*. Member of the Board of Electors of the Whewell Professorship of International Law of Cambridge University.

Cacique's Crown of Honour (CCH) (1970); Order of Roraima (OR) (1980); Order of Excellence (OE) (1988).

Author of various books and articles.

Judge Andrés AGUILAR-MAWDSLEY

(Member of the Court since 6 February 1991)

Born at Caracas, Venezuela, on 10 July 1924.

Doctorate in Political and Social Science *summa cum laude* from the Central University of Venezuela (Caracas). Master's degree in Civil Law from McGill University, Montreal, Canada.

Lecturer in Civil Law at the Central University of Venezuela (Caracas) (from 1948) and at the Andrés Bello Catholic University (from 1954).

Professor of Law at both universities (since 1958). Dean of the Faculty of Law at the Central University of Venezuela (Caracas) until first appointment as Minister of Justice in May 1958. Vice-Rector of the Andrés Bello Catholic University (Caracas) (1962-1963). Member of the Council of the Faculty of Law at the Central University of Venezuela (Caracas) (1967-1969).

Minister of Justice (1958-1962). Elected Magistrate of the Court of Cassation by the Venezuelan Congress on 7 February 1959. Did not take up this appointment in view of prior appointment as Minister of Justice by the President of the Republic. Legal counsel to and judicial representative of Petróleos de Venezuela, S.A., the national oil company of Venezuela (1975-1983). Member of the Advisory Committee on Foreign Policy, by appointment of the President of the Republic (1979-1984; 1984-1989).

Chairman of the committee set up to co-ordinate studies and activities relating to the optimum use of international water resources of interest to Venezuela (1983-1986).

Legal Counsel to the Venezuelan Chamber of Construction (1951-1958). Secretary of the Governing Council of the Bar Association of the Federal District (Caracas) (1955-1956). In February 1958, elected member of the Board of Directors of the Industrial Bank of Venezuela for the biennium 1958-1959; retained this office until first appointment as Minister of Justice. Vice-President of the Organization for the Protection of Children (1962-1963). Chairman of the National Board of Directors of Caritas, Venezuela (1966-1969). Member of the governing council of the Institute for Advanced Administrative Studies (IESA) (since 1966). Delegate of the Andrés Bello Catholic University to the Second Latin American Conference on Political and Social Sciences and Vice-Chairman of this meeting, Santiago and Viña del Mar, Chile (1966). Member of the Venezuelan Justice and Peace Commission (1967). Member of the Technical Board of the Federation of Institutions for the Protection of Children (since 1968). President of the National Committee of the International Council on Social Welfare (1968). Head of the Venezuelan delegation to the Fourteenth Conference on Social Welfare, Helsinki (Finland) (1968), and Chairman of Working Group IV set up to study social policy and the right to education and culture.

Ambassador, Permanent Representative of Venezuela to the United Nations Office and the specialized agencies with headquarters at Geneva (1963-1965). President of the International Labour Conference (Geneva, 1964). President of the Inter-Governmental Committee for European Migration (ICEM) (Geneva, 1964 and 1965). Ambassador, Permanent Representative of Venezuela to the United Nations (1969-1972 and 1986-1991). Head of the Venezuelan delegation (in the absence of the

Minister for Foreign Affairs) to the United Nations General Assembly (1969-1971, 1986-1990). Chairman of the First Committee (Political and Security Questions) of the United Nations General Assembly (1970). As representative of Venezuela, served as one of the Vice-Presidents of the United Nations General Assembly (1971). Member of the Permanent Court of Arbitration (since 1970). Representative of Venezuela to the United Nations Commission on Human Rights (1968-1972) and Chairman of the Commission (1971). Ambassador Extraordinary and Plenipotentiary of Venezuela to the United States of America (1972-1974). Member of the Inter-American Commission on Human Rights (IACHR) (1972-1985) and its President for several periods (1974-1976, 1976-1978, 1979, 1985). Head of the delegation of Venezuela to the Third United Nations Conference on the Law of the Sea and Chairman of the Second Committee of that Conference (1973-1982). Member of the International Commission of Jurists (since 1979) and President of the Commission (1986-1992). Co-chairman of the committee appointed by the United Nations Secretary-General on the question of United States diplomats taken hostage in Iran (1980). Member of the Human Rights Committee established under the International Covenant on Civil and Political Rights (1981-1988). Special Representative of the United Nations Commission on Human Rights to study the human rights situation in Iran (1984-1985). Principal representative of Venezuela to the United Nations Security Council (1986-1987); President of the Council (1987). Chairman of the Credentials Committee of the United Nations General Assembly (1986). President of the United Nations Economic and Social Council (1988). Member of the Board of Trustees of the United Nations Institute for Training and Research (UNITAR) (1987-1988 and 1989-1990), and Chairman of the Board (1989-1990).

Member of the Governing Council (and Chairman) of the Venezuelan United Nations Association (1967-1968). Member of the American Society of International Law and Member of its Executive Board (1983-1986). President of the Board of Directors of the Eduardo Frei International Foundation for Democracy and Development (1984-1986). Fellow of the Academy of Political and Social Sciences of Venezuela (since 1978) and President of its governing board (1985-1986). Member of the Hispano-Luso-American Institute of International Law. Member of the Institute of International Law. Member of the Société française pour le droit international.

Order of the Liberator, Grand Sash. Order of Andrés Bello, First Class. Order of Francisco de Miranda, First Class. Cross of the Armed Forces for Co-operation, First Class. Knight Commander of the Order of Saint Gregory the Great (Holy See). Grand Cross of the Order of May (Argentine Republic). Order of José María Vargas (Central University of Venezuela), First Class.

Author of numerous books and articles.

Judge Christopher Gregory WEERAMANTRY

(Member of the Court since 6 February 1991)

Born in Colombo, Sri Lanka, on 17 November 1926.

B.A.; LL.B.; LL.D. (University of London); LL.D. *(honoris causa)* (University of Colombo).

Advocate, Supreme Court of Sri Lanka (1948-1965). Lecturer and Examiner, Council of Legal Education, Sri Lanka (1951-1956). Commissioner of Assize, Supreme Court of Sri Lanka (1965-1967). Justice of the Supreme Court of Sri Lanka (1967-1972). Member, Council of Legal Education, Sri Lanka (1967-1972). Honorary Visiting Professor, University of Colombo (since 1984). Honorary Life Member, Bar Association of Sri Lanka.

Sir Hayden Starke Professor of Law, Monash University, Melbourne, Australia (1972-1991). Emeritus Professor of Law, Monash University (since 1991). Chairman, Commission of Inquiry into International Responsibility for Phosphate Mining on Nauru (1987-1988).

Panellist, Unesco Seminar on Teaching of Human Rights, Canberra (1980); Member, United Nations University Task Force on Human Rights (1982); Vice-Chairman, United Nations Centre against *Apartheid*/ Government of Nigeria Conference on Legal Status of *Apartheid* Régime, Lagos (1984); Panellist, SCOPE/ENUWAR/UNU (Scientists' Committee on Problems of the Environment/Environmental Consequences of Nuclear War/United Nations University), International Conference on Nuclear Danger, Tokyo (1985); Lecturer, United Nations Human Rights Commission Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Palais des Nations, Geneva (1988); Editor, United Nations University/United Nations Human Rights Commission's two-volume study on Science, Technology and Human Rights (1988-1990); Co-ordinator, United Nations University/Netherlands Institute of Human Rights Workshop on Science, Technology and Human Rights, Utrecht (1989).

Visiting Professorships and Academic Appointments: University of Tokyo (1978); University of Stellenbosch (1979); University of Papua New Guinea (1981); University of Florida (1984); Lafayette College, Pennsylvania (1985); University of Hong Kong (1989).

Member, Editorial Board: *Sri Lankan Journal of International Law; Human Rights Quarterly*, Johns Hopkins University; *Interdisciplinary Peace Research*, La Trobe University; *Journal of Ceylon Law*; Advisory Board, *China Law Reports*.

Associate Academician, International Academy of Comparative Law, Paris; Vice-President, International Commission of Jurists, Victoria; Past President, World Federation of Overseas Sri Lankan Organizations; Vice-Patron, United Nations Association of Sri Lanka; Member, Club of Rome (Australia); Society of Public Teachers of Law; World Association of Law Professors; Lawasia; World Association on the Philosophy of Law and Legal Philosophy.

Books: *The Law of Contracts, being a Comparative Study of the Roman-Dutch, English and Customary Laws of Contract in Ceylon* (2 vols.), 1965; *The Law in Crisis: Bridges of Understanding*, 1975; *Equality and Freedom: Some Third World Perspectives*, 1976; *Human Rights in Japan*, 1979; *Apartheid: The Closing Phases?*, 1980; *An Invitation to the Law*, 1980; *The Slumbering Sentinels: Law and Human Rights in the Wake of Technology*, 1983; *Law: The Threatened Peripheries*, 1984; *Nuclear Weapons and Scientific Responsibility*, 1987 (translated into Japanese); *Islamic Jurisprudence: Some International Perspectives*, 1988; *Human Rights and Scientific and Technological Development*, ed., 1990; *Nauru: Environmental Damage under International Trusteeship*, 1992; *The Impact of Technology on Human Rights: Global Case Studies*, ed., 1993.

Reports: *Report of the Nauru Commission of Inquiry* (10 vols.), 1988 (joint author).

Articles in law journals in Asia, Africa, Australasia, Europe and North America.

Published lectures include: "Fundamental Perspectives on Equality and Freedom", World Congress on Equality and Freedom, St. Louis, Missouri (1976), an official event marking the American Bicentennial; "National and Transnational Systems as Denigrators of Human Rights", Unesco Seminar on Teaching of Human Rights, Canberra (1981); "The Right to Development", Lawasia Seminar on Establishment of a Regional Human Rights Framework for the Pacific, Suva (1985); "Cultural and Ideological Pluralism in Contemporary Public International Law", World Congress of International Academy of Comparative Law, Sydney and Melbourne (1986); "Traffic in Armaments: A Blind Spot in Human Rights and International Law", Joint Soviet/US International Conference on Nuclear Weapons and International Law, New York (1987); "Emerging Dimensions of Sovereignty in International Law", International Seminar on the Coming Global Civilization, Moscow (1988); "The Teaching of Human Rights", United Nations Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Geneva (1988); "The Law, Nuclear Weapons and the Real World", First World Convention of Lawyers against Nuclear Arms, The Hague (1989); "International Arbitration under the UNCITRAL Rules", Regional Seminar on International Arbitration, Kuala Lumpur (1989); "Judicial Reasoning under the Common Law", Commonwealth Law Conference, Auckland (1990); "The Importance of Philosophical Perspectives to the Judicial Process", 6 *Connecticut Journal of International Law* (1991); "Does International Law Matter?", *Inaugural Tun Hussein Onn Memorial Lecture*, Kuala Lumpur (1991); "The Right to Know: Freedom of Information as a Human Right", Commonwealth Law Conference, Cyprus (1993); "Introducing Human Rights to the Younger Generation", Unesco, Netherlands (1993); "The Constancy of the Judicial Obligation", Inaugural Fernando Memorial Lecture, Colombo (1994); "The World Court: Its Conception, Constitution and

Contribution", *Inaugural Governor's Forum*, Melbourne, Australia (1994); 1995 Martin Luther King Lecture, "On Earth as It Is in Heaven: A Vision of World Order for the 21st Century", *Tulsa Journal of Comparative and International Law*, 1995.

Order of *Deshamanya* (Sri Lanka); Mohamed Sahabdeen Award for International Understanding in the SAARC Region, 1993.

Judge Raymond RANJEVA

(Member of the Court since 6 February 1991)

Born at Antananarivo, Madagascar, on 31 August 1942.

Bachelor's degree in law (1965), University of Madagascar, Antananarivo. *Diplôme* from the Madagascar National School of Administration (1966). Trainee in the Judicial Division of the Conseil d'Etat, Paris (1965-1966). *Diplôme* d'études supérieures de sciences politiques, University of Paris, Faculty of Law and Economic Science (1966). *Diplôme* d'études supérieures de droit public, University of Madagascar (1967). Doctorate of Law, University of Paris II (thesis: "La succession d'organisations internationales en Afrique"). *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972).

Laureate of the University of Madagascar. Laureate of the National Association of Doctors of Law. Laureate of the Madagascar National School of Administration.

Civil Administrator (1966). Assistant (1966-1972), Lecturer (1972) and Professor (1981-1991) at the University of Madagascar. Professor at the Madagascar Military Academy and at the Madagascar National School of Administration. Director of the Public Law and Political Science Study Centre. Director of the Legal and Political Science Department of the University of Madagascar. Dean of the Faculty of Law, Economics, Management and Social Sciences (1982-1986); reappointed in 1986. First Rector of the University of Antananarivo (1988-1990). Associate or visiting lecturer at several universities abroad: University of Aix-Marseille III, Bordeaux I, Paris I (Panthéon-Sorbonne), Paris II (Panthéon-Assas) and the Institute of Advanced International Studies, La Réunion and Burundi. Director of the French-speaking research seminar at the Hague Academy of International Law (1987). Member (Ouagadougou, 1988) and President (Cotonou, 1992) of the Board of *Agrégation* Examiners of the African and Malagasy Council on Higher Education.

Conciliator at the World Bank International Centre for Settlement of Investment Disputes since 1970. Member of Malagasy delegations to several international conferences: Third United Nations Conference on the Law of the Sea; Preparatory Commission for the International Seabed Authority and the Law of the Sea Tribunal; United Nations General Assembly (1979-1990); Non-Aligned Countries (1979); Conference of States which use French (1987); Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties,

Vienna (1976-1977); Member of the Malagasy delegation responsible for negotiating the revision of the co-operation agreements with France (1973); First Vice-Chairman of the First African Seminar on International Humanitarian Law, Yaoundé (1977). Vice-President for Africa of the International Conference of French-Speaking Faculties of Law and Political Science (1987-1991).

Counsel to the Republic of Mali in the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*. Consultant for Madagascar on the amicable settlement of the transfer to the State of the activities of Eau-Electricité de Madagascar and Electricité de France (1973).

Member and Vice-President of the Malagasy Academy (1974); President of the ethics and political science section (1975-1991). Managing Director of JURECO: legal, economic and financial databank – research and advisory bodies (1986-1990). Editor of the periodical *Lettre mensuelle de Jureco* (1986-1988). Member of the French Society of International Law. Member of the Quebec Society of International Law. Member of the Governing Body of the African Society of International and Comparative Law.

Member of the National Constitutional Committee (1975). Founding Member of the Malagasy Human Rights Committee (1971). Legal adviser to the Catholic Bishops Conference, Madagascar. Secretary-General of the Malagasy Legal Studies Society.

Commandeur of the National Order of Madagascar. Chevalier of the Madagascar Order of Merit. Officer of the National Order of Mali. Six Honours.

Author of numerous books, essays and articles and has given lectures at a number of seminars.

Judge Géza HERCZEGH

(Member of the Court since 10 May 1993; re-elected as from 6 February 1994)

Born in Nagykapos, Hungary, on 17 October 1928.

Educated at French Grammar School in Gödöllö, Hungary.

Bachelor's degree in law, University of Szeged (1951); Candidate in Jurisprudence (Ph.D.) (1965); Doctor *honoris causa* at the Law Faculty of the University of Marburg, Germany (1990); Corresponding Member (1985), and Member of the Hungarian Academy of Sciences (1990); Vice-President of the Department of Legal and Economic Sciences of the Hungarian Academy of Sciences (1990-1993).

Research Fellow in public international law at the Institute of Political Sciences, Budapest (1951-1967); studies as Senior Fellow at various institutes, e.g. in Paris (1966), Salzburg (1970); Professor of Law, Head of the International Law Department of the Law Faculty of the University of Pécs (1967-1990); Dean of the Law Faculty of the University of Pécs

(1981-1987); lectured in international humanitarian law at several universities (e.g., Bayreuth, Bratislava, Cambridge, Cracow, Exeter, Graz, Marburg, Moscow, Osijek, Novi Sad, Vienna) (1970-1985); lecturer in seminars for the implementation and dissemination of international humanitarian law, Warsaw (1985), Vegimont (1989).

Judge and Vice-President of the Constitutional Court of the Republic of Hungary (1990-1993).

Represented the Hungarian Red Cross Society as expert on international humanitarian law at the conferences of The Hague (1971), Vienna (1972), Tehran (1973), Monaco (1984); governmental expert on international humanitarian law at the conferences of Geneva (1971 and 1972); member of the Hungarian delegation at the Diplomatic Conference of Geneva on the protection of victims of armed conflicts (1974-1977); served as Vice-President of the Third Commission of the same Conference; member of the Hungarian delegation at the Unesco Conference in Sophia (1977); Rapporteur at the Third Conference on Parliamentary Democracy organized by the Council of Europe on the topic "Problems of Transition from an Authoritarian or Totalitarian Régime to a Genuinely Democratic System", Strasbourg (1991); member of the expert working group ("Badinter Group") preparing the draft convention on peaceful settlement of disputes within the framework of the Conference on Security and Co-operation in Europe, Paris (1992).

Author of the following works: *The Colonial Question and International Law* (in Hungarian), 1962; *General Principles of Law and the International Legal Order*, Series in Foreign Languages, 1969; *Development of International Humanitarian Law*, 1984; *Foreign Policy of Hungary, 896-1919* (in Hungarian), 1987; and of numerous articles in international law and relations, especially in international humanitarian law.

Judge SHI Jiuyong

(Member of the Court since 6 February 1994)

Born in Zhejiang, China, on 9 October 1926.

B.A. in Government and Public Law, St. John's University, Shanghai (1948); M.A. in International Law, Columbia University, New York, United States of America (1951); research in international law at Columbia University, New York (1951-1954).

Assistant Research Fellow in International Law, Institute of International Relations, Beijing, China (1956-1958). Senior Lecturer, Associate Professor of International Law, Foreign Affairs College, Beijing (1958-1964). Research Fellow in International Law, Institute of International Law, Beijing (1964-1973). Research Fellow in International Law, Institute of International Studies, Beijing (1973-1980). Professor of International Law, Foreign Affairs College, Beijing (1984-1993).

Professor of Law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China, Beijing (1987-1988).

Adviser, Chinese Society of International Law, Beijing. Council member, Institute of Hong Kong Law of the Chinese Law Society, Beijing.

Legal Adviser, Office of the Chinese Senior Representative, Sino-British Joint Liaison Group (on the question of Hong Kong) (1985-1993). Legal Adviser, Chinese Centre of Legal Consultancy, Beijing (1989-1993). Member, Standing Committee, Beijing Committee (1988-1993), and member, Eighth National Committee (1993), Chinese People's Political Consultative Conference. Legal Adviser, Ministry of Foreign Affairs, People's Republic of China (1980-1993).

Legal Adviser, Chinese delegation to the 1980 Annual Meeting of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development. Legal Adviser, delegation of the Ministry of Finance of the People's Republic of China for the formal visit to the International Bank for Reconstruction and Development (1980). Adviser, Chinese delegation to the thirty-fifth session of the General Assembly of the United Nations and China's Alternate Representative to the Sixth Committee at that session. Adviser, Chinese delegation to the thirty-sixth, thirty-seventh and thirty-eighth sessions of the United Nations General Assembly and China's delegate to the Sixth Committee at the same sessions (1981-1983). Delegate, Chinese delegation to the sessions of the Asian-African Legal Consultative Committee in 1981, 1985 and 1993. Legal Adviser, Chinese delegation to the talks between the Government of China and the Asian Development Bank on the question of China's membership in the Bank (1986). Legal Adviser of the Chinese side, Working Group of the Sino-British Negotiations on the question of Hong Kong (1984). Legal Adviser of the Chinese side, Sino-British Joint Liaison Group (on Hong Kong), plenary sessions (1985-1993). Delegate, Chinese delegation, legal consultations between the Ministry of Foreign Affairs of the People's Republic of China and the Department of State of the United States of America (1983 and 1984). Delegate, Chinese delegation, negotiations between the Government of the People's Republic of China and the Government of the United States of America on Mutual Promotion and Protection of Investment Agreement (1983 and 1984). Representative of the International Law Commission to the forty-fifth session of the United Nations General Assembly (1990). Expert from China, Senior Legal Experts Meetings on Review of Montevideo Programme, United Nations Environment Programme, 5-6 July 1991 at Geneva and 5-7 September 1991 at Nairobi. Representative of the International Law Commission to the thirtieth meeting of the Asian-African Legal Consultative Conference, Cairo, 22-27 April 1991. Legal Adviser to the Chinese delegation, Disarmament Conference, November 1991 to August 1992.

Member (1987-1993), Rapporteur (1988) and Chairman (1990) of the International Law Commission.

Member, Foreign Economic and Trade Arbitration Commission, China Council for the Promotion of International Trade (1984-1988). Member of the Steering Committee on revision of the Hague Convention of 1907 on Pacific Settlement of International Disputes of the Permanent Court of Arbitration (since 1994).

Taught general course of international law, Foreign Affairs College, Beijing (1958-1963). Taught general course of international economic law, Department of Law, Peking University (1980-1985). Taught general course of international economic law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China (1988).

Lectures on international financial institutions, National Bureau of Oceanography, the People's Republic of China (1986). Lectures on principles of international law relating to the new international economic order, Department of Law, Peking University (1988). Lectures on protection of private foreign investment (in English), the Hague Academy of International Law, Regional Programme, Beijing (1987). Lecture on the Sino-British Joint Declaration on the question of Hong Kong (in English), Graduate Institute of International Studies, Geneva (1988). Lecture on autonomy in international law and the case of the future Hong Kong Special Administrative Region (in English), International Law Seminar, United Nations Office at Geneva (1988). Lecture on "Nationality of Hong Kong Residents: Present and Future", Graduate Studies, Foreign Affairs College (1988). Lecture on certain issues relating to the legal status of the future Hong Kong Special Administrative Region, Graduate Studies, Department of Law, Peking University (1989). Lectures on international trade regulation, Foreign Service Training Programme of the Ministry of Foreign Affairs of the People's Republic of China (1985 and 1986). Lectures on problems of international economic law, Department of Law, Chinese People's University, Beijing (1987). Chairman, panel discussions on the new international economic order, Beijing Conference on the Law of the World, World Peace through Law (1990). Participant, Symposium on the International Law of Arms Control and Disarmament, held at Geneva (February 1991). Lectures on the International Law Commission, Graduate Studies, Department of Law, Peking University (March 1991). Lectures on selected topics of international economic law, Graduate Studies, Foreign Affairs College (September/October 1991). Participant in the Seminar on the Draft Code of Crimes and International Criminal Jurisdiction, sponsored by the Foundation for the Establishment of an International Criminal Court and International Criminal Law Commission, Talloires, France (May 1991). Lectures on bilateral investment protection agreements (in English), International Law Seminar, United Nations Office at Geneva (June 1992). Participant, Symposium on Teaching, Dissemination and Research of International Law in Developing Countries, Beijing, 1992.

Author of numerous publications on international law.

Judge Carl-August FLEISCHHAUER

(Member of the Court since 6 February 1994)

Born in Düsseldorf, Germany, on 9 December 1930.

Studied at the Universities of Heidelberg, Grenoble and Paris. First State Examination (Law), Heidelberg (1954). Fulbright Scholar, University of Chicago Law School (1954-1955). Junior Barrister Düsseldorf/Heidelberg (1955-1959). Dr. jur., Heidelberg. Second State Examination (Law), Stuttgart (1960). Hague Academy of International Law (1960).

Research Fellow at the Max Planck Institute for International and Foreign Public Law, Heidelberg (1960-1962).

Entered the diplomatic service of the Federal Republic of Germany in 1962. Foreign assignments to Tehran (1962-1963) and Montevideo (1969-1971). Official (1964-1969), Deputy Head (1971) and Head (1972), International Law Section, Legal Department, Federal Foreign Office. Legal Adviser to the Federal Foreign Office and Director-General of the Legal Department (1976-1983).

Member of the Committee of Experts on Human Rights, Council of Europe, Strasbourg (1964-1967). Member of the delegation of the Federal Republic of Germany to the United Nations Conference on the Law of Treaties, Vienna (1968-1969). Observed Sixth Committee during parts of the twenty-third and twenty-fourth sessions of the General Assembly for the then Observer Mission of the Federal Republic of Germany (1968 and 1969). Member of the delegation of the Federal Republic of Germany to the United Nations General Assembly (twenty-eighth to thirty-third sessions as Adviser and Special Adviser, thirty-fourth to thirty-seventh sessions as Alternate Representative) (1973-1982). Alternate Representative and Representative of the Federal Republic of Germany in the Sixth Committee. Representative of the Federal Republic of Germany (1978-1979), on the *Ad Hoc* Committee of the Sixth Committee on the elaboration of the International Convention against the Taking of Hostages. Member of the delegation of the Federal Republic of Germany to the CSCE (Geneva Phase, Helsinki Final Phase) (1974-1975). Member (Vice-Chairman) of the delegation of the Federal Republic of Germany to the Diplomatic Conference on Humanitarian Law applicable in Armed Conflicts, Geneva (1974-1977). Head of the delegation of the Federal Republic of Germany to the United Nations Conference on State Succession in relation to Treaties, Vienna (1977-1978). Member (from 1977 Vice-Chairman) of the delegation of the Federal Republic of Germany to the Third United Nations Conference on the Law of the Sea (1974-1982). Has participated in numerous bilateral meetings and negotiations.

Under-Secretary-General for Legal Affairs, the Legal Counsel of the United Nations (1983-1994).

Was actively engaged, on the side of the Federal Republic of Germany,

in the following cases before the Court: *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* (1967-1969); and *Fisheries Jurisdiction (Federal Republic of Germany* v. *Iceland)* (1972-1974). Was actively engaged, on the side of the United Nations, in the advisory cases on the: *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal* (1984-1987); *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947* (1988); and *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* (1989).

Honorary member of the Indian Society of International Law (since 1985). Member of the German Society of International Law and, since 1977, of the Council of the Society. Member of the American Society of International Law. Member of the Curatorium of the Max Planck Institute for International and Foreign Public Law, Heidelberg (since 1975). Member of the Heidelberg Society for International and Foreign Public Law. Member of the Association française pour le droit international.

Awarded the German Cross of Merit, First Class, and several foreign decorations (all before 1983).

Author of numerous publications on international law.

Judge Abdul G. KOROMA

(Member of the Court since 6 February 1994)

Born in Freetown, Sierra Leone, on 29 September 1943.

LL.M. (Honours), University of Kiev. Master of Philosophy (International Law), King's College, University of London; Barrister-at-Law, and Honorary Bencher, Honourable Society of Lincoln's Inn, London.

Joined the Government service of Sierra Leone in 1964 and the Ministry of Foreign Affairs in 1969. As a Barrister and Legal Practitioner of the High Court of Sierra Leone, was appointed State Counsel and Special Adviser to the Attorney-General and Minister of Justice. Served as Legal Adviser to the Permanent Mission of Sierra Leone to the United Nations. Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the United Nations, New York, while concurrently accredited as High Commissioner of Sierra Leone to Jamaica and Trinidad and Tobago, and Ambassador to the Republic of Korea (Seoul) and Cuba (1981-1985). Served as Ambassador Extraordinary and Plenipotentiary to Belgium, France, Luxembourg and the Netherlands while concurrently accredited to the European Communities and to the United Nations Educational, Scientific and Cultural Organization (Unesco) (1985-1988). Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the Organization of African Unity (OAU) with concurrent accredita-

tion to Ethiopia, Kenya, the United Republic of Tanzania and Zambia (1988-1992).

Played an active role in and contributed to the elaboration of many contemporary international legal instruments. As delegate to the General Assembly, served on the Sixth Committee (Legal) from 1977 to 1994 and was elected Chairman. Also served as delegate of Sierra Leone to the following United Nations bodies: the Special Committee on the Review of the Charter and on the Strengthening of the Role of the Organization; the United Nations Commission on International Trade Law (UNCITRAL); the United Nations Committee on the Peaceful Uses of Outer Space; the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.

Represented Sierra Leone at many plenipotentiary conferences, including the United Nations Conference on the Succession of States in respect of Property, Debts and Archives, and was a signatory of the Convention; the Third United Nations Conference on the Law of the Sea (UNCLOS III) and Chairman of the African Group at the Conference. In that capacity, was closely associated with the elaboration of some of the key provisions of the resulting Convention. Was a signatory of the Convention.

Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the Republic of Sierra Leone to the United Nations, New York.

Member of the International Law Commission (since January 1982), and Chairman of the Commission during its forty-third session (1991). Former Chairman of the Committee mandated to elaborate a Draft Statute for an International Criminal Court. As a member of the International Law Commission, was an active participant and contributor to the codification and progressive development of such important international legal instruments as the Draft Code of Crimes against Peace and Security of Mankind; Treaties between States and International Organizations and between International Organizations; the Jurisdictional Immunities of States and their Property; the Law of State Responsibility; the proposed Statute of an International Criminal Court; and the Law of the Non-Navigational Uses of International Watercourses; the draft articles on most-favoured-nation clauses; the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, and of the optional protocols thereto.

Contributions to other major areas of international law, including the law of self-determination, human rights law, international humanitarian law, and the peaceful settlement of disputes; has written and lectured on these subjects. Serves as an expert on the International Committee of the Red Cross (ICRC) at Geneva on the implementation of and respect for international humanitarian law. Has delivered lectures on all of these topics in many countries, including Cameroon,

Canada, China, Ethiopia, Germany, India, Japan, Malta, Norway, Sweden, the United Republic of Tanzania and the United States of America.

Participated in conferences, symposiums and seminars on international law, including those held by the International Ocean Institute (Malta and Halifax, Nova Scotia); the International Law Institute (Hawaii); the International Criminal Jurisdiction (Talloires); the International Institute of Higher Studies in Criminal Sciences; Centre for International Studies, New York University School of Law; the Asian-African Legal Consultative Committee. Also served as external examiner in international law for Ph.D. candidates at the University of Dalhousie, Halifax, Nova Scotia, Canada.

Member of the American Society of International Law and of the Planning Council of the International Ocean Institute (Halifax and Malta).

Member and Vice-President of the African Association of International Law, and an expert consultant on the implementation of international humanitarian law with the International Committee of the Red Cross.

The Order of Commander of Rokel was awarded by the Government of Sierra Leone for outstanding professional service (1991).

Author of a thesis on the *Settlement of Territorial and Boundary Disputes in Africa* (University of London). Has also published articles on the law of the sea, the exclusive economic zone, Antarctica, mercenaries, human rights, international humanitarian law, and the law of humanitarian intervention.

Judge Vladlen Stepanovich VERESHCHETIN

(Member of the Court since 26 January 1995)

Born in Briansk, Russian Federation, on 8 January 1932.

Graduated from the International Law Faculty of the Moscow Institute of International Relations (1954). Post-graduate studies in international law at the same Institute (1955-1958). Candidate of Juridical Sciences (1959). Doctor of Juridical Sciences (1976). Professor of International Law (1982).

Staff member of the Presidium of the USSR Academy of Sciences (1958-1967). First Vice-Chairman and Legal Counsel, Intercosmos, USSR Academy of Sciences (1967-1981). Deputy Director and Head of International Law Department of the Institute of State and Law, Russian Academy of Sciences, Moscow (1981-1995).

Member of the United Nations International Law Commission (1992-1995); Chairman of the Commission (1994-1995). Member of the USSR delegations to the United Nations Committee on the

Peaceful Uses of Outer Space and its Legal Sub-committee (1979-1990).

Member of the Permanent Court of Arbitration (1984-1995).

Has given lecture courses and individual lectures on the theory of international law, the peaceful settlement of international disputes, the law of the sea, the law of outer space and the law of international organizations at the Institute of International Relations, the Diplomatic Academy and the University of Friendship of Peoples (Moscow), the Sverdlovsk Juridical Institute, the Institute of International Public Law and International Relations (Thessaloniki), the European University Institute (Florence), the Universities of Akron and Mississippi (United States) and the Institute of International Private and Public Law (The Hague). Has presented papers on different international law subjects at many international congresses and conferences.

Vice-President of the Russian (formerly Soviet) Association of International Law (since 1985). Chairman of the Scientific Council on International and Comparative Law at the Institute of State and Law, Russian Academy of Sciences (1981-1995). Vice-President, Honorary Director of the International Institute of Space Law (since 1978). Member of the Policy and Finance Committee of the International Law Association (since 1990). Vice-President of the Russian (formerly Soviet) United Nations Association (since 1984).

Member of the editorial and advisory boards of the *Russian Law Journal*, the *European Journal of International Law* (Italy) and the *Journal of Space Law* (United States).

National orders: "Badge of Honour" (1967), "Friendship of Peoples" (1975), "October Revolution" (1981). Honorary Awards of the German Academy of Sciences at Berlin (1978), the Bulgarian Academy of Sciences (1979), the International Academy of Astronautics (1987, 1994), the Russian Association of International Law (1995).

Author of numerous works and articles on international law published in Russia and abroad, including seven-volume *Course of International Law*, Moscow, 1989-1993 (Deputy Editor-in-Chief of the course and co-author).

Judge Luigi FERRARI BRAVO

(Member of the Court since 21 June 1995)

Born at Naples, Italy, on 5 August 1933.

Graduated *magna cum laude* in law, University of Naples, 1956.

Assistant Professor of International Law, University of Naples (1956-1961); "Libero docente" of Public and Private International Law (1961); Professor of International Organization, on an annual term, University of Bari (1961-1965); Professor of International Law, on an

annual term, University of Bari (1965-1968); Professor of International Law, on an annual term, Istituto Universitario Orientale, Naples (1962-1968); Full Professor of International Law, Law Faculty, University of Bari; Director of the Institute of International Law, same Faculty (1968-1974); Full Professor of International Organization, Istituto Universitario Orientale, Naples (1974-1979); Dean of the Department of Political Science, same University (1975-1976); Professor of European Community Law, High School of Public Administration, Rome, Full Professor from 1975 (1965-1979); Full Professor of European Community Law, Faculty of Political Science, University of Rome (1979-1982); Full Professor of Public International Law, same Faculty (1982-1991); Full Professor of European Community Law, Law Faculty, University of Rome (1991-1995).

Lecturer on International Law, National University of Somalia, Mogadishu (1971); Lecturer, Hague Academy of International Law (1975 and 1982); on various occasions has given courses on international law at the Training Institute for Diplomats at the Italian Ministry of Foreign Affairs; has lectured at universities and scientific institutions in Argentina, Belgium, Canada, Germany, Peru, Switzerland, United States of America.

Member of the Italian Bar, with the right to plead before the Supreme Court; Head of the Legal Service of the Italian Ministry of Foreign Affairs (1985-1994).

Member of the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT) (1990-1994); President of UNIDROIT (since 1 January 1995).

Member of the Italian delegation to the United Nations Seminar on Economic and Social Rights (Warsaw, 1967); Italian Expert at the World Conference on Human Rights (Tehran, 1968); Italian representative to the preparatory committees for the First to Fourth European Conferences of Law Faculties (Strasbourg, 1968, 1971, 1974, 1976); Chairman of a Committee at the Second and Third Conferences. Member of the United Nations Special Committee on the Question of Defining Aggression (1973-1974). Member of the Italian delegation to the Geneva Diplomatic Conference on Humanitarian Law (1975-1977); Head of the delegation to the Committee on the Charter of the United Nations and the Strengthening of the Role of the Organization (1975-1983); Member of the *Ad Hoc* Working Group on corrupt practices of multinational corporations (1976-1979); of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations (1978-1983); Chairman of the Sixth Committee of the General Assembly (1978-1979); Member of the *Ad Hoc* Committee on the Drafting of a Convention against the Taking of Hostages (1979); Member of the *Ad Hoc* Committee on the Drafting of a Convention against the Recruitment, Use, Training and Financing of Mercenaries (1982 and 1983), Vice-Chairman; Chairman of one of the working groups of the same Committee. Member and Chairman (1982, 1983) of the Working

Group of the Sixth Committee on the Protection of Persons Submitted to Any Form of Detention or Imprisonment; Member of the Italian delegation to the Conferences for the Review of the Treaty on the Denuclearization of the Sea-bed and Ocean Floor in Geneva (1977, 1983); Member of the Intergovernmental Group for the Drafting of a Code of Conduct for Transnational Corporations, eighth to seventeenth sessions (1980-1982); Member of the Commission on Transnational Corporations (1980-1993); Member of the United Nations Commission on International Trade Law, thirteenth and fifteenth sessions (1980, 1982); appointed by the Italian Government as Conciliator (provided for in Annex to Article 66, Vienna Convention on the Law of Treaties of 1969; Legal Adviser at the Permanent Mission to the United Nations (New York, 1981-1984); Legal Adviser to the Permanent Mission in Geneva (1984-1985); Head of the Italian delegation to the Codification Conference on the Law of Treaties between States and International Organizations (Vienna, 1986); Member of the *Ad Hoc* Committee on Unlawful Acts against the Safety of Maritime Navigation (1987), Head of the Italian delegation to the IMO Conference (Rome, March 1988), President of the Conference.

Agent of the Italian Government before the Court of Justice of the European Communities (1985-1994); Agent of the Italian Government before the European Commission and the European Court on Human Rights (1985-1994); Agent of the Italian Government before the International Court of Justice in the case concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)*.

Secretary-General of the Siena Forum on International Law of the Environment (1990), convened under the recommendation of the Summit of the Seven Most Industrialized Countries; Member of the Italian Group of the Permanent Court of Arbitration; Head of the Italian delegation to the Conference on Security and Co-operation in Europe (Valletta Meeting, 1991) on Peaceful Settlement of Disputes, Member of the mechanism created by such meeting; Member of Conciliators' Panel, CSCE Mechanism of the Human Dimension, Moscow Declaration (1991).

Member of the Institute of International Law; Member of Board of Directors of the Italian Society for International Organization; Member, International Law Association, American Society of International Law, Italian Association for Comparative Law, Italian-German Association of Jurists, Institute for International Affairs (Rome), Italian Association for Arbitration, Société française de droit international (Paris).

General co-ordinator (1965-1981) of the Italian National Research Council Team (Italian Society for International Organization – Ministry of Foreign Affairs) on "Il contributo dell'Italia alla formazione delle consuetudini internazionali"; Member, editorial board, Commentaries on the EEC Treaty and ECSC Treaty (1965 and 1970); Member, editorial board, *Cahiers de droit européen*, Brussels; Member, scientific board, *Rivista di diritto internazionale*; General Editor, *Italian Yearbook of International Law*; Member, editorial board, *German*

Yearbook of International Law; Editor-in-Chief, *La Comunità Internazionale*.

Major publications: *La prova nel processo internazionale*, 1958; *Diritto internazionale e diritto interno nella stipulazione dei trattati*, 1964; "Le operazioni finanziarie degli enti internazionali (Banca Mondiale, SFI, IDA)", *Annuario di diritto internazionale*, 1965; "Problemi interpretativi dell'art. 177 del trattato CEE", *Comunicazioni e studi dell'Istituto di diritto internazionale e straniero dell'Università di Milano*, Vol. XII, 1966; *Responsabilità civile e diritto internazionale privato*, 1973; "Les rapports entre contrats et obligations délictuelles en droit international privé", *Recueil des cours*, Hague Academy of International Law, Vol. 146, 1975; "Méthodes de recherche de la coutume internationale dans la pratique des Etats", *Recueil des cours*, Hague Academy of International Law, Vol. 192, 1985; *Codice dell'Unione Europea* (with V. Rizzo), 1994; *Lezioni di diritto internazionale I*, 4th ed., 1994; *Lezioni di Diritto Comunitario* (with M. E. Moavero Milanesi), 1995.

Author also of more than 50 articles and notes, on both public and private international law, as well as on the law of the European Communities.

Judge Rosalyn HIGGINS

(Member of the Court since 12 July 1995)

Born at London on 2 June 1937.

Dame Commander of the British Empire (1995).

B.A. (Cantab) 1st Class (1959); LL.B. (Cantab) 1st Class (1962); J.S.D. (Yale) (1962); M.A. (Cantab) (1962); Honorary Doctorates of the Universities of Paris XI (1980), Dundee (1992), Durham and London (1995).

Minor Scholar, Girton College, Cambridge (1957); Major Scholar, Girton College, Cambridge (1958); Campbell Scholarship for Professional Studies (1957); Montefiore Award for academic and general distinction (1958); Bryce-Tebbs Scholar, Cambridge (1958); Commonwealth Fund (Harkness) Fellowship (1959-1961); Graduate Fellow, Yale Law School (1959-1961).

United Kingdom Interne, Office of Legal Affairs, United Nations (1958); Visiting Fellow, Brookings Institution, Washington, DC (1960); Junior Fellow in international studies, London School of Economics (1961-1963); Staff specialist in international law, Royal Institute of International Affairs (1963-1974); Visiting Fellow, London School of Economics (1974-1978); Professor of International Law, University of Kent at Canterbury (1978-1981); Professor of International Law, University of London (1981-1995).

Queen's Counsel (1986); Bencher of the Inner Temple (1989).

Queen's Counsel and Bencher of the Inner Temple, practising in public international law and petroleum law. Practice in the English courts and before various international tribunals, including the International Court of Justice, the European Court of Human Rights and the Court of the European Communities.

Counsel for the International Tin Council in a series of cases in the United Kingdom.

Counsel in the following cases in the International Court of Justice: *Territorial Dispute (Libyan Arab Jamahiriya/Chad); East Timor (Portugal* v. *Australia); Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom); Gabčíkovo-Nagymaros Project (Hungary/Slovakia).*

President, Tribunal of the International Centre for Settlement of Investment Disputes *(Amco* v. *Indonesia).*

Member of the Committee on Human Rights under the International Covenant on Civil and Political Rights (1984-1995); Special Rapporteur for new cases (1989-1991).

Associé of the Institut de droit international (1987), Member (1991); Chairman, Public International Law Advisory Board, British Institute for International and Comparative Law (since 1992); Hon. Vice-President of the American Society of International Law (1993).

Rockefeller Foundation Fellowship (1961); British Academy Award (1977-1978); Volumes I and II of *United Nations Peacekeeping* received the 1971 Certificate of Merit of the American Society of International Law; *Problems and Process* received the 1995 Certificate of Merit of the American Society of International Law; Wolfgang Friedman Medal for services to International Law, Columbia University (1985); Harold Weil Medal, New York University (1995); Ordre des Palmes Académiques (1988); Honorary Life Membership Award, American Society of International Law (1992).

Member of the Board of Editors of the *American Journal of International Law* (1975-1985), the *British Year Book of International Law* and of the *Journal of Energy and Natural Resources Law.*

Delivered general course on international law at the Hague Academy of International Law (1991).

Author of *The Development of International Law through the Political Organs of the United Nations*, 1963; *Conflict of Interests: International Law in a Divided World*, 1965; *The Administration of the United Kingdom Foreign Policy through the United Nations*, 1966; *UN Peacekeeping: Documents and Commentary*, Vol. I, *Middle East*, 1969, Vol. II, *Asia*, 1970, Vol. III, *Africa*, 1980, Vol. IV, *Europe*, 1981; *Law in Movement – Essays in Memory of John McMahon* (joint editor with James Fawcett), 1974; "The Taking of Property by the State: Recent Developments in International Law", *Recueil des cours*, Hague Academy of International Law, Vol. 176, 1982; *Liberté de circulation des personnes en droit international* (joint editor with Maurice Flory), 1988; "International Law and

the Avoidance, Containment and Resolution of Disputes (General Course on Public International Law)", *Recueil des cours*, Vol. 230, 1991; *Problems and Process: International Law and How We Use It*, 1994; and of various works and articles on international legal theory, United Nations law, the use of force, State and diplomatic immunities, human rights and international petroleum law.

II. Judges *Ad Hoc*

Article 7, paragraph 3, of the Rules of Court provides that judges *ad hoc* are to take precedence after the Members of the Court and in order of seniority of age.

Judge *ad hoc* Sir Ninian Stephen

(Judge *ad hoc* in the case concerning *East Timor (Portugal* v. *Australia)*)

Born in the United Kingdom on 15 June 1923.

Educated in the United Kingdom, Switzerland and Australia. War Service (1941-1946), Australian Army.

Honorary doctorates (Melbourne, Sydney, Perth and Griffith Universities), Honorary Master, Gray's Inn.

Admitted to practise in Victoria as a barrister and solicitor in 1949 after studies at University of Melbourne; LL.B. (Melbourne) (1950).

Practised as a solicitor (1949-1952), and from 1952 as a barrister and member of the Victorian Bar; appointed Queen's Counsel (1966). Appointed to the Victorian Supreme Court bench in 1972 and in March 1972 appointed a justice of the High Court of Australia. Sworn of the Privy Council of the United Kingdom in 1979 and sat as a member of its Judicial Committee. Retired from the High Court of Australia in 1982 when senior puisne justice to take up appointment as Governor-General of Australia, which office held until 1989.

Appointed Australia's first Special Ambassador for the Environment (1989).

Chairman of various Australian governmental bodies including the Constitutional Centenary Foundation, the Antarctic Foundation and the National Library of Australia. Appointed in 1992 by the United Kingdom and Republic of Ireland Governments as Chairman of Strand Two of the Talks in Northern Ireland.

Elected to be a judge of the International Criminal Tribunal for the former Yugoslavia (1993) and of the Tribunal for Rwanda (1995).

Honours and awards: K.G., A.K., G.C.M.G., G.C.V.O., K.B.E., P.C, Commander of the French Legion of Honour.

Judge *ad hoc* Kéba MBAYE

(Judge *ad hoc* in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*)

Holder of the diploma of advanced studies in private law (Paris); holder of the certificate of the Ecole nationale de la France d'outre-mer (Magistrature Department).

Honorary First President of the Supreme Court.

Former President of the Constitutional Council of Senegal.

Former lecturer at the Faculty of Law of the University of Dakar and at the Ecole nationale d'administration of Senegal (1967-1978).

Doctor *honoris causa* of the Universities of Lille II, Savoie (France), Bhopal (India) and Emory (United States of America).

Member of the International Court of Justice (6 February 1982 to 5 February 1991); Vice-President of the Court (1987 to 1991); formerly judge *ad hoc* in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal)*.

Has been a member of various United Nations bodies and has in particular participated as member and chairman in the work of the Commission on Human Rights, the Commission responsible for seeking the settlement of any dispute between States Parties to the Convention against Discrimination in Education, the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, and of the *Ad Hoc* Working Group of Experts to investigate violations of human rights in southern Africa; member of the ILO Committee of Experts.

Vice-Chairman of the Executive Committee of the International Institute of Human Rights (René Cassin Foundation); Honorary Member of the International Institute of Humanitarian Law; former Chairman of the International Commission of Jurists; Honorary President of the World Federation of United Nations Associations; former President of the International Academy of Human Rights; Member of the Société française pour le droit international; Vice-President of the Institut international de droit d'expression française; was General Rapporteur at the Organization of African Unity Conference which adopted the African Charter on Human and Peoples' Rights.

Honorary Member of the Belgian Académie royale des sciences d'outre-mer; Member of the International Academy of Comparative Law, of the International Law Association, of the Académie française des sciences d'outre-mer, of the Curatorium of the Hague Academy of International Law, and of the Institute of International Law; Vice-Chairman of the ICC International Court of Arbitration; Chairman of the Arbitral Tribunal of Sport.

Author of numerous publications concerning the law of Senegal, the law of sub-Saharan Africa, human rights in general, and in particular

the right to development. Gave a lecture on "'Interest to Act' before the International Court of Justice" at the Hague Academy of International Law (1988).

Judge *ad hoc* François Ernest Robert RIGAUX

(Judge *ad hoc* in the case concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*)

Born in Ixelles, Belgium, on 26 March 1926.

Bachelier of Philosophy (1945); Doctor of Law (1947); Licencié in Criminal Science (1948); Agrégé in Law (1956); Doctor *honoris causa* of the University of Dijon (1981).

Senior Lecturer (1955), Assistant Professor (1959) and Professor (1961) in the Faculty of Law of the Université catholique de Louvain. Subjects taught: civil law (persons and property); private international law; protection of the individual and of privacy. Dean of the Faculty of Law (1980-1984), and President of the International Law Department of the Université catholique de Louvain. Professor emeritus at the Université catholique de Louvain (1991) and Visiting Professor, Faculty of Law (1991-1992; 1992-1993). Visiting Professor, Catholic University, Brussels (1993-1994 and 1994-1995) and University Faculties at Saint Louis, Brussels (1995-1996).

As well as courses and lectures at various foreign universities, particularly in Florence, Bremen, Barcelona, Caracas, Caceres, Geneva, Hamburg, Milan, Munich, Nancy, Regensburg, Rio de Janeiro and Baton Rouge, gave courses as follows: a course at the Hague Academy of International Law on change of connecting factors in private international law (1966), published in the collection *Reuceil des cours*; the General Course on Private International Law in 1989 on "Les situations juridiques individuelles dans un système de relativité générale", also published in the *Recueil des cours*; Visiting Professor at the Université Lovanium, Kinshasa (1970); holder of the Francqui Professorship at the Université libre de Bruxelles (1975-1976 academic year), where he taught a course entitled "Droit public et droit privé dans les relations internationales" (published in 1977); course at the Institut des hautes études internationales (Paris, 1978-1979 academic year) on the new international economic order (published in the Institute's "collection des cours et travaux"); Director of Studies of the 1979 summer programme of the Institut universitaire de Luxembourg on the impact of the EEC on the private international law of its member States (work published in 1980). Holder of the Francqui Professorship in the Faculty of Law of the Katholieke Universiteit Leuven (Catholic University of Louvain) (1980-1981 academic year), where he taught a course on "Le pluralisme juridique". Holder of the Francqui Professorship at the Facultés universitaires Notre-Dame de la Paix, Namur (1991-1992 academic year), where he taught a course on "La liberté de la

vie privée". Invited to give lectures at the Tunis Faculty of Law (1988 and 1989), Florence Faculty of Political Science (1988), and Faculty of Law of the Université d'Aix-Marseille (1991-1992).

Served on Ph.D. examining boards at the Universities of Dijon, Lyons, Nice, Reims and Tunis.

Member of the Bar of Brussels (1947-1954). Deputy Royal Procurator (1954-1963). At present, Honorary Deputy Royal Procurator. Assessor, Legislation Section of the Conseil d'Etat (1966-1991), authorized by Royal Order to bear the honorary title of that function.

Member of the Institute of International Law (and Third Vice-President from 1983 to 1985). Member of the Institut belge de droit comparé. President of the Société belge de droit international. Member of the governing board of the Société des amis d'Henri Rolin. President of the scientific council of the *Revue belge de droit international*. Member of the governing board of the Centre interuniversitaire de droit comparé. (Corresponding) Member of the Section des sciences morales et politiques, classe des lettres of the Académie royale de Belgique (January 1988). (Associate) Member of the International Academy of Comparative Law.

Winner of the Prix des Anciens Présidents et du *Journal des tribunaux* awarded to a first-year trainee (1947-1948 judicial year). Winner of the Emile van Dievoet Prize (period 1951-1955) for his work entitled: *La théorie des qualifications en droit international privé*. Winner of the "Legatum Visserianum" Prize awarded in January 1962 by the College of Curators of Leiden University for a dissertation on Representation in Comparative Private International Law, submitted on 1 March 1959. Winner of the José A. Negri Prize awarded by the Federal Council of Argentine Notaries for the collective work "Les régimes matrimoniaux et les successions en droit international privé", edited by him in 1961 on the occasion of the Seventh International Congress of Latin Notaries.

Officer of the Order of Leopold (1968), Commander of the Order of the Crown (1977), Grand Officer of the Order of Leopold II (1988).

Principal publications: *La théorie des qualifications en droit international privé*, 1956; *Le statut de la représentation en droit international privé*, 1959; *La nature du contrôle de la Cour de cassation*, 1966; *Précis de droit international privé*, 1968; *Précis de droit des personnes*, Vol. I: *Les relations familiales*, 1971, updated with the collaboration of M. T. Meulders-Klein, 1978; *Introduction à la science du droit*, 1974; *Droit public et droit privé dans les relations internationales* (publication of the *Revue générale de droit international public*, No. 26), 1977; *Droit international privé*, Vol. I: *Théorie générale*, 1977, revised 2nd ed., 1987; Vol. II: *Droit positif belge*, 1979, revised 2nd ed. with the collaboration of Marc Fallon, 1973; *Pour un autre ordre international*, Droit économique 2, Institut des hautes études internationales de Paris, 1979-1980; *Derecho internacional privado, parte general*, translation and adaptation to Spanish law of Volume I of *Droit international privé*, by Mrs. A.

Borras Rodríguez, 1985; *La Carta di Algieri*, translated by Anna Lo Monaco, 1988; "Les situations juridiques individuelles dans un système de relativité générale (Cours général de droit international privé)", *Recueil des cours*, Hague Academy of International Law, Vol. 213, 1989; *Pour une déclaration universelle des droits des peuples*, 1990; *La protection de la vie privée et des autres biens de la personnalité*, 1990; *La vie privé, un liberté parmi les autres?*, 1992.

Judge *ad hoc* Krzysztof SKUBISZEWSKI

(Judge *ad hoc* in the case concerning *East Timor (Portugal* v. *Australia)* and in the case concerning *Gabčikovo-Nagymaros Project (Hungary/Slovakia)*)

Born in Poznań, Poland, on 8 October 1926.

Faculty of Law and Economic Sciences, University of Poznań *(magister juris)* (1945-1949); Doctor *juris* (1950); European University Centre (Diploma of European Higher Studies), University of Nancy, France (1957); Harvard School of Law (Master of Law) (1957-1958); "Habilitation" in International Law at the Adam Mickiewicz University in Poznań (1960); Doctor *honoris causa* of the Universities of Ghent, Liège, Turin, Mainz and Geneva.

Assistant teacher and lecturer, Faculty of Law, Adam Mickiewicz University in Poznań (1948-1960); Dozent, Faculty of Law, Adam Mickiewicz University in Poznań (1961-1973), Pro-Dean at that Faculty (1961-1963); Visiting Scholar, School of International Affairs, Columbia University, New York (1963-1964); Visiting Professor at the Law Faculty, University of Geneva (1971 and 1979); Visiting Fellow, All Souls College, Oxford (1971-1972); Professor, Institute of Law, Polish Academy of Sciences, Warsaw (since 1973; at present on leave of absence); Honorary Professor, University of Bucharest.

Lectures at the Universities of Nottingham and London; International Faculty of Comparative Law in Strasbourg; Graduate Institute of International Studies at Geneva; College of Europe at Bruges, Belgium, and also the Clubs of International Law of Harvard, Duke and Oxford Universities; Max-Planck Institute in Heidelberg; Universities of Vienna and Graz; Faculty of Law, University of Paris II; Royal Institute of International Affairs, Chatham House; All Souls College, Oxford; Institut d'Etudes Politiques de Paris; Free University, Berlin (1963-1995); also Hersch Lauterpacht Lectures, Cambridge (1985); Cyril Foster Lecture, Oxford (1990); Lord Wilberforce Lecture (1990); Hugh Gaitskell Lecture (1991); and numerous other lectures in European, American, Australian and Asian Societies of Political and Legal Sciences or International Relations (1989-1995).

Member of "Solidarity" (since 1980); Member of the Primate of Poland Social Council (1981-1984); Member of the Co-ordinating Committee of

the Poland-Federal Republic of Germany Forum, representing the secretariat of the Polish Episcopate (1984-1989); Member of the Consultative Council to the Chairman of the Council of State of the Polish People's Republic (1986-1989); Minister for Foreign Affairs (1989-1993).

Member (since 4 December 1993) and President (since 16 February 1994) of the Iran-United States Claims Tribunal.

Member of the Academies of Sciences of Warsaw and of Cracow; Correspondent, Institut de France; Member of the Society of Arts and Sciences, Poznań; Western Institute, Poznań; International Law Association (Polish branch); Institut de droit international (First Vice-President, 1995-1997); American Society of International Law (Honorary Member, 1991); Société française pour le droit international; Deutsche Gesellschaft für Völkerrecht; Oxford Society; Codrington Club; Honorary Bencher, Gray's Inn. Curator, United Nations Student Association, Poznań (1960-1973).

Gold Cross of Merit (1977); Knight's Cross of the Order of Polonia Restituta (1986); Cavaliere di Gran Croce, Ordine Piano (Holy See, 1991); Grand Officier de la Legion d'honneur (1991); Grosskreuz des Verdienstordens der Bundesrepublik Deutschland (1991); Order of Diplomatic Merit of the Republic of Korea (1991); Cross of Merit of the Republic of Hungary (1994).

Alexander von Humboldt Foundation research prize (1984); Wartburg Prize, Germany (1992).

Author of four books and some 100 articles in law journals or collections of studies, also chapters in collective books and reports, on legal aspects of Polish-German relations, in particular the border between the two countries; use of force by States and law of armed conflicts; law of international organizations; theory of international law, including its sources; rights of individuals.

Judge *ad hoc* Elihu LAUTERPACHT

(Judge *ad hoc* in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*)

Born in London, United Kingdom, on 13 July 1928.

Cambridge University, B.A. (1949); L.L.M. (1950); Whewell Scholar in International Law (1950).

Director of the Research Centre for International Law and Honorary Professor of International Law, University of Cambridge.

Fellow of Trinity College, Cambridge.

Barrister (1950); Queen's Counsel (1970); Bencher of Gray's Inn.

Commander of the British Empire (C.B.E.) (1989).

Legal Adviser of the Australian Department of Foreign Affairs (1975-1977); deputy leader of the Australian delegation to the United

Nations General Assembly (1975-1977); deputy leader of the Australian delegation to the United Nations Law of the Sea Conference (1975-1977).

Counsel or advocate in numerous cases before the International Court of Justice, the European Commission of Human Rights, the Iran-United States Claims Tribunal, various international arbitral tribunals and national courts; counsel and adviser to many Governments and corporations.

Member of the Panel of Arbitrators of the International Centre for the Settlement of Investment Disputes (since 1974); Member of the Panel of Arbitrators of the Dispute Settlement Centre of the International Energy Agency (since 1980).

Chairman of the East African Common Market Tribunal (1972-1975); Member (since 1979) and Vice-President (since 1992) of the World Bank Administrative Tribunal; Chairman of the Asian Development Bank Administrative Tribunal (1992-1995).

Member of the Institute of International Law; Honorary Member of the American Society of International Law.

Director, English-speaking Section, Research Centre of the Hague Academy of International Law (1959 and 1960); delivered course of lectures at the Hague Academy of International Law (1976), on "The Development of the Law of International Organization by the Decisions of International Tribunals".

Editor of the *International Law Reports* (since 1960) and founder editor of *British Practice in International Law*.

Publications include *Aspects of the Administration of International Justice* (1991); "The Development of the Law of International Organization by the Decisions of International Tribunals", Hague Academy of International Law, *Recueil des cours* (1976); *Jerusalem and the Holy Places* (1968); and many articles.

Judge *ad hoc* Santiago TORRES BERNÁRDEZ

(Judge *ad hoc* in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*)

Born in Vigo, Spain, on 18 November 1929.

Licenciado (1952) and Doctor of Law (1959) of the University of Valladolid, Spain. *Diplomé d'études supérieures européennes* (1955) and Doctor of Law (1957) of the University of Saar, Germany. Doctor *Honoris Causa* of Law (1993) of the University of Alcalá de Henares, Spain.

Member of the Madrid Bar Association. Legal consultant and counsel or advocate in international cases.

Member of the Permanent Court of Arbitration; Member of the Humanitarian Fact-Finding Commission; Member of the Institute of

International Law; Member of the International Law Association; Honorary Member of the Spanish Association of International Law Professors; Member of the Société française pour le droit international; Member of the American Society of International Law; Associate Member of the Hispano-Luso-American Institute of International Law.

Member of the Spanish National Committee for the 50th Anniversary of the United Nations; Vice-president of the NGO "Spain with the UNHCR".

Judge *ad hoc* in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1989-1992).

Former Registrar of the International Court of Justice (1980-1986). Former Member of the Office of Legal Affairs of the Secretariat of the United Nations (1959-1980) being, since 1975, Deputy Director of the Codification Division and Deputy Secretary of the International Law Commission. During that period served continually United Nations legal bodies (Sixth Committee of the General Assembly; International Law Commission; special or *ad hoc* committees), participating also in all the United Nations diplomatic conferences convened between 1960 and 1980 for the purpose of the progressive development of international law and its codification.

Expert of the United Nations in the Committee established by the International Committee of the Red Cross for the study of a prohibition of specific conventional weapons, including those which may be deemed to be excessively injurious or have indiscriminate effects (1973); Member of the United Nations delegation in the Diplomatic Conference on the reaffirmation and development of international humanitarian law applicable in armed conflicts (1974-1977); Member of the observer mission sent to Panama by the United Nations Secretary-General to monitor the constitutional referendum on the ratification of the Treaties on the Panama Canal (1977).

Professor in the Instituto Universitario Ortega y Gasset, Madrid. Has given many lectures at various universities and societies in Spain and abroad.

Addressed, in 1995, the United Nations Congress on Public International Law on the topic "La función de la Corte Internacional de Justicia en el sistema de la Carta de las Naciones Unidas".

Director (1970) of the French-speaking Section of the Research Centre of the Hague Academy of International Law (subject: interpretation of treaties) and delivered in 1995 course of lectures at the Hague Academy of International Law on "L'intervention dans la procédure de la Cour internationale de Justice".

Author of various published studies and articles on questions of international law and international organizations and procedures, including: *À propos de l'interprétation et de la revision des arrêts de la Cour internationale de Justice*, 1987; *Resignations at the World Court*, 1988; *La reciprocidad en el sistema de jurisdicción obligatoria establecido en el*

Artículo 36, párrafo 2, del Estatuto de la Corte Internacional de Justicia, 1988; "Subsidiary Organs of International Organizations", in *A Handbook on International Organizations*, published by the Hague Academy of International Law, 1988; "Problems and Issues Raised by 'Crimes of States': An Overview", *International Crimes of States. A Critical Analysis of the ILC's Draft Article 19 on State Responsibility*, 1989; "L'arbitrage interétatique. Avec des références particulières à la Convention européenne pour le règlement des différends du 20 avril 1957", in *The Peaceful Settlement of International Disputes in Europe: Future Prospects*, Workshop of the Hague Academy of International Law, 1990; "Observations on 'Non-Appearance' before the International Court of Justice", *Annuaire de l'Institut de droit international*, session de Bâle, Vol. 64–I, 1991; "Succession d'Etats", in Unesco, *Droit international. Bilan et perspectives*, 1991; *Reciprocity in the System of Compulsory Jurisdiction and in Other Modalities of Contentious Jurisdiction Exercised by the International Court of Justice*, 1992; *Perspectivas en la contribución de las Naciones Unidas al mantenimiento de la paz y la seguridad internacionales: Comentarios y observaciones sobre la Declaración de los Miembros del Consejo de Seguridad de 31 de enero de 1992*, 1993; "Spain and the Jurisdiction of the International Court of Justice: From Past to Present", *Archiv des Völkerrechts*, 1994; *The* Uti Possidetis Juris *Principle in Historical Perspective*, 1994; "Some Considerations on the Respective Roles of the Security Council and the International Court of Justice with Respect to 'the Prevention of Aggravation of Disputes' in the Domain of the Pacific Settlement of International Disputes or Situations", in *Proceedings of the Qatar International Law Conference '94* (United Nations Decade of International Law), 1995.

Awarded the Spanish Great Cross of Civil Merit (1987) and other foreign decorations (all after 1987).

Judge *ad hoc* Ahmed Sadek EL-KOSHERI

(Judge *ad hoc* in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*)

Born at Cairo, Egypt, on 4 April 1932.

Licencié en Droit, Faculté de Droit (1952), D.E.S. Droit Musulman (1954), D.E.S. Droit Privé (1955), D.E.S. Droit Public (1956), Cairo University. D.E.S. en Sciences Politiques (1957), Diplôme de Droit Comparé (1959), Paris University. D.E.S. en Histoire et Philo-

sophie de Droit (1960), Doctorat d'Etat en Droit (1962), Rennes University.

Faculty Member of the Law School, Ain Shams University, Cairo (1958-1974). Visiting Professor, Beirut Arab University (1963-1964) and Nanterre University (Paris X) (1987-1988). Professor of International Economic Law and Vice-President of Senghor University, Alexandria.

Partner of Kosheri, Rashed and Riad law firm, Cairo.

Member of the Egyptian Conseil d'Etat (1952-1958). Founding General Counsel of the Arab Fund for Economic and Social Development, Kuwait (1963-1964). Legal Adviser of the Ministry of Oil and Finance, Kuwait (1968-1969). Secretary-General of the Islamic Development Bank, Jeddah (1978).

Member of the Institut de droit international. Member of the Council for International Commercial Arbitration (ICCA). Member of the Conseil d'Arbitrage Franco-Arabe. Member of the Scientific Council of the International Business Law Institute, International Chamber of Commerce, Paris.

Author of numerous books and articles on general public international law, international commercial law and on international arbitration.

Prince Bola Adesumbo AJIBOLA

(Judge *ad hoc* in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*)

Born to the Royal Family of Gbdaela II, on 22 March 1934, in Ago-Owu, Abeokuta, Ogun State, Nigeria.

Called to the Bar, Lincoln's Inn, 1962 (Barrister-at-Law); holds Bachelor of Laws Degree of London University; legal practitioner for 23 years, mostly in Lagos and also in all other parts of Nigeria; Principal Partner of Bola Ajibola and Co., with offices in Lagos, Ikeja, Abeokuta and Kaduna (specialization: commercial law practice with particular bias for international arbitration).

Attorney-General and Minister of Justice of the Federal Republic of Nigeria (1985-1991); President of the Association of Arbitrators of Nigeria; President of the Nigerian Bar Association (1984-1985); conferment of an Award of Senior Advocate of Nigeria (1986); Chairman of the Body of Senior Advocates of Nigeria (1985-1991); Chairman of the Disciplinary Committee of the Bar (1985-1991); Chairman of the General Council of the Bar (1985-1991); Chairman of the Advisory Committee on the Prerogative of Mercy (1985-1991); Member of the Advisory Judicial Committee (1985-1991); Member of the Judicial Service Committee (Abuja) (1987-1991); Vice-Chairman of the Body of Benchers (1989-1990); Chairman of the Body of Benchers (1990-1991); Member of the

Nigeria Police Council (1989-1991); Chairman of the Task Force for the Revision of the Laws of the Federation (1990).

Leader of the Nigerian Delegation to the United States of America to Initial an Executive Agreement on Procedure for Mutual Assistance on Law Enforcement Matters (1987) and of the Delegation to conclude a Treaty on Mutual Assistance in Criminal Matters (1989), of the Delegation to the United Kingdom to conclude a Treaty concerning the Investigation and Prosecution of Crime and the Confiscation of the Proceeds of Crime (1989), and of the Delegation to the Islamic Republic of Iran and to Algeria, for bilateral talks on Technical and Legal Co-operation (1991).

Member of the International Court of Justice from 5 December 1991 to 5 February 1994.

Member of the Nigerian Delegation to the United Nations General Assembly and Nigerian representative to the Sixth Committee (1986); temporary President of the United Nations General Assembly at its seventeenth special session on narcotic drugs (1990); Member of the International Law Commission (1986-1991).

Member of the Permanent Court of Arbitration (The Hague); Member of the International Chamber of Commerce Court of Arbitration, Paris; Member of the International Maritime Arbitration Commission, Paris; Member of the Board of the London Court of International Arbitration; President of the Pan-African Council of the London Court of International Arbitration; Justice of the Constitutional Court of the Federation of Bosnia and Herzegovina (1995).

Initiated the first ever African Law Ministers Conference, Abuja (1989) (attended by 32 African countries); Chairman of Meeting of ECOWAS Council of Law Ministers, Lagos, Nigeria (1990), where the Treaty Establishing the Court for the Economic Community of West African States was drafted and agreed to by ECOWAS law ministers; leader of the Nigerian Delegation to the Ethiopian All-Party Conference on Peaceful and Democratic Transition (1991); Chairman of the First Meeting of the Working Committee, All-Africa Law Ministers Conference, Cairo (1991); Member of the Nigerian Delegation to the World Peace through Law Conferences in Seoul, South Korea (1987), and Beijing, China (1990); leader of the Nigerian Delegation to the World Conference on the Reform of Criminal Law, Canada (1987), to the Commonwealth Law Conference in Auckland, New Zealand (1990) and the Commonwealth Law Ministers Conference in Christchurch, New Zealand (1990), to the World Ministerial Drugs Summit on Action to Reduce the Demand for Drugs and to Combat Cocaine Threat (1990), and to the 17th Session of the Asian African Legal Consultative Committee in Cairo (1991). President of the World Association of Judges; Vice-President of the International Contractual Relations Commission of the International Chamber of Commerce (1976-1980); Vice-President of the Institute of International Business Law and Practice, Paris; National Chairman of the World Peace through Law Center; represented Africa in the demonstration trial on

the law of the sea at the World Peace through Law Conference (Manila, 1977); Fellow of the Chartered Institute of Arbitrators; Fellow of the Nigerian Institute of Advanced Legal Studies; Friend of the Institute of Advanced Legal Studies, London.

Member of the African Bar Association, the International Bar Association, the Association of World Lawyers, the International Chamber of Commerce, the Commonwealth Law Association, the International Council on Commercial Arbitration, the World Arbitration Institute, and the Society for the Reform of Criminal Law.

Editor, *Nigeria's Treaties in Force*, 1970-1990; Editor, *All Nigeria Law Reports*, 1961-1990; Editor-in-Chief, *Justice* (a monthly journal of contemporary legal problems); General Editor of the *Federal Ministry of Justice Law Review Series (FMJLRS)*; Member of the Editorial Advisory Board of the University of Buckingham.

Publications include: *Principles of Arbitration*, 1980; *New Concepts in the Resolution of Disputes in International Construction Contracts*, 1981; *Work Paper on International Commercial Arbitration*, 1982; *Arbitration and State Enterprises – Case Study of Nigerian Cement Transactions*, 1983; *Modernization of National Arbitration Laws in Aid of International Commercial Arbitration*, 1984; *The Law and Settlement of Commercial Disputes*, 1984; *Law Development and Administration in Nigeria*, 1987; *Towards a Better Administration of Justice System in Nigeria*, 1988; *Integration of the African Continent through Law*, 1988; *Narcotics: Law and Policy in Nigeria*, 1989; *Compensation and Remedies for Victims of Crime*, 1989; *Banking Frauds and Other Financial Malpractices in Nigeria*, 1989; *Women and Children under Nigerian Law*, 1990; *Scheme relating to Mutual Assistance in Criminal Matters and the Control of Criminal Activities within Africa*, 1990; "Human Rights under Military Rule in Africa: The Nigerian Experience" in *Essays in Honour of Judge Taslim Olawale Elias*, 1991. Author of numerous articles and conference papers.

1987 World Jurist Award (under the auspices of World Peace through Law at Seoul); Senior Advocate of Nigeria; Recipient of 1986 Ogun State of Nigeria Outstanding Citizen Merit Award; Life Member, Nigerian Institute of International Affairs; Life Member, Body of Benchers, Nigeria; Knight of the Order of the British Empire; Patron of the Nigerian Society of International Law.

Judge *ad hoc* Mohsen AGHAHOSSEINI

(Judge *ad hoc* in the case concerning the *Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America)*)

Born in Tehran, Islamic Republic of Iran, on 10 October 1945.

Studied at the Faculty of Law, University of Tehran (LL.B., 1967); University of London (Postgraduate Diploma in Law, 1971, and LL.M., 1973); University of Oxford (B.Litt., 1978); and Gray's Inn, London (1972-1973).

Legal Adviser for International Claims, Ministry of Industries (1979). Legal Adviser and Head of the Legal Department, Industrial Development and Renovation Organization of Iran (1979-1982). Lecturer, Faculties of Law, Letters, and Divinity, Tehran University (1980-1982). Legal Consultant to the Central Bank of the Islamic Republic of Iran (1981). Head of Delegation, Ministry of Industries, to Vienna Conciliation held under the Algerian Declarations (1982). Legal Adviser for Foreign Claims, the Shipping Lines Organization of the Islamic Republic of Iran (1981-1982). Legal Adviser to Iran's Bureau for the Coordination and Implementation of the Algerian Declarations (1982). Legal Assistant, Iran-United States Claims Tribunal (1982-1984). *Ad hoc* Arbitrator, Iran-United States Claims Tribunal (1984). Arbitrator in certain cases before the International Chamber of Commerce (1985 and 1991). Deputy in Charge of Legal Affairs, the Hague Branch of the Bureau of International Legal Services of the Islamic Republic of Iran (1984-1986); and subsequently its Director (1986-1990). Member of the Iran-United States Claims Tribunal (since 1990). Member of the Permanent Court of Arbitration (since 1995).

Has written a number of research papers and articles on various legal issues.

Judge *ad hoc* Milenko KREĆA

(Judge *ad hoc* in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*)

Born in Sisak, Croatia, on 19 August 1947.

Received M.A. and Ph.D. (LL.D.) degrees *cum laude* from the School of Law, Belgrade University.

Upon graduation, practised law as an attorney (1973-1974).

Assistant Professor (1975), Docent (1978) and Associate Professor (1985) at the Belgrade School of Law. Full-time Professor of International Public Law (1990) and Associate Dean (1989-1991) at the Belgrade School of Law.

Was on several occasions legal adviser to the Ministry of Foreign Affairs and Government of the Federal Republic of Yugoslavia and to other organs of the Republic of Serbia and the Federal Republic of Yugoslavia.

Papers and books: *Practical Course in International Law* (co-author), 1980; *International Public Law* (co-author), 1983, 1986, 1989, 1990, 1991, 1993; *Sources of International Public Law*, 1979, 1985; *Treaty-making Power of the State in International Law, with a Special Review of Federal States*, 1988; *Absolutely Binding Norms (Ius Cogens) in International Public Law*, 1989; *Material for International Public Law*, I-III (co-author), 1988-1989; *Law of the Sea – Scientific Research of the Sea and Transfer of Marine Technology*, 1990; *Treaty-making Power of the State in*

International Law, 1991. Author of over 60 articles and papers in Serbian and foreign languages, including: "Some General Reflections on Main Features of *Ius Cogens* as a Notion of International Public Law", in *New Directions in International Law, Essays in Honour of W. Abendroth*, 1982; "Quelques observations sur le problème de la hiérarchie des règles de droit dans le droit international public", in *Yugoslav Review of International Law*, No. 1, 1980; "Constitutional Provisions Regulating Activity of Federal Units in International Relations", in *Yugoslav Review of International Law*, No. 1, 1992.

CHAPTER III

JURISDICTION OF THE COURT

I. Jurisdiction in Contentious Cases

It is the function of the International Court of Justice to decide in accordance with international law such disputes as are submitted to it (Statute, Art. 38, para. 1). Its jurisdiction in this respect is defined in Article 93 of the Charter of the United Nations and in Articles 34-37 of the Statute of the Court.

1. States Entitled to Appear before the Court

Article 34, paragraph 1, of the Statute provides that: "Only States may be parties in cases before the Court." International organizations, other collectivities and private persons are therefore not entitled to institute proceedings before the Court.

A State entitled to appear before the Court may fall into one of three categories:

(a) *States Members of the United Nations*

Article 35, paragraph 1, of the Statute provides that the Court shall be open to the States parties to the Statute, and Article 93, paragraph 1, of the Charter of the United Nations provides that all Members of the United Nations are *ipso facto* parties to the Statute.

On 31 July 1995 the following 185 States were Members of the United Nations:

State	*Date of Admission*
Afghanistan	19 November 1946
Albania	14 December 1955
Algeria	8 October 1962
Andorra	28 July 1993
Angola	1 December 1976
Antigua and Barbuda	11 November 1981
Argentina	Original Member
Armenia	2 March 1992
Australia	Original Member
Austria	14 December 1955
Azerbaijan	2 March 1992
Bahamas	18 September 1973
Bahrain	21 September 1971
Bangladesh	17 September 1974
Barbados	9 December 1966

State	*Date of Admission*
Belarus	Original Member
Belgium	" "
Belize	25 September 1981
Benin	20 September 1960
Bhutan	21 September 1971
Bolivia	Original Member
Bosnia and Herzegovina	22 May 1992
Botswana	17 October 1966
Brazil	Original Member
Brunei Darussalam	21 September 1984
Bulgaria	14 December 1955
Burkina Faso	20 September 1960
Burundi	18 September 1962
Cambodia	14 December 1955
Cameroon	20 September 1960
Canada	Original Member
Cape Verde	16 September 1975
Central African Republic	20 September 1960
Chad	" "
Chile	Original Member
China	" "
Colombia	" "
Comoros	12 November 1975
Congo	20 September 1960
Costa Rica	Original Member
Côte d'Ivoire	20 September 1960
Croatia	22 May 1992
Cuba	Original Member
Cyprus	20 September 1960
Czech Republic	19 January 1993
Democratic People's Republic of Korea	17 September 1991
Denmark	Original Member
Djibouti	20 September 1977
Dominica	18 December 1978
Dominican Republic	Original Member
Ecuador	" "
Egypt	" "
El Salvador	" "
Equatorial Guinea	12 November 1968
Eritrea	28 May 1993
Estonia	17 September 1991
Ethiopia	Original Member
Federated States of Micronesia	17 September 1991
Fiji	13 October 1970
Finland	14 December 1955
France	Original Member

State	*Date of Admission*
Gabon	20 September 1960
Gambia	21 September 1965
Georgia	31 July 1992
Germany	18 September 1973
Ghana	8 March 1957
Greece	Original Member
Grenada	17 September 1974
Guatemala	Original Member
Guinea	12 December 1958
Guinea-Bissau	17 September 1974
Guyana	20 September 1966
Haiti	Original Member
Honduras	" "
Hungary	14 December 1955
Iceland	19 November 1946
India	Original Member
Indonesia	28 September 1950
Iran (Islamic Republic of)	Original Member
Iraq	" "
Ireland	14 December 1955
Israel	11 May 1949
Italy	14 December 1955
Jamaica	18 September 1962
Japan	18 December 1956
Jordan	14 December 1955
Kazakhstan	2 March 1992
Kenya	16 December 1963
Kuwait	14 May 1963
Kyrgyzstan	2 March 1992
Lao People's Democratic Republic	14 December 1955
Latvia	17 September 1991
Lebanon	Original Member
Lesotho	17 October 1966
Liberia	Original Member
Libyan Arab Jamahiriya	14 December 1955
Liechtenstein	18 September 1990
Lithuania	17 September 1991
Luxembourg	Original Member
Madagascar	20 September 1960
Malawi	1 December 1964
Malaysia	17 September 1957
Maldives	21 September 1965
Mali	28 September 1960
Malta	1 December 1964
Marshall Islands	17 September 1991
Mauritania	27 October 1961

State	*Date of Admission*
Mauritius	24 April 1968
Mexico	Original Member
Moldova	2 March 1992
Monaco	28 May 1993
Mongolia	27 October 1961
Morocco	12 November 1956
Mozambique	16 September 1975
Myanmar	19 April 1948
Namibia	23 April 1990
Nepal	14 December 1955
Netherlands	Original Member
New Zealand	" "
Nicaragua	" "
Niger	20 September 1960
Nigeria	7 October 1960
Norway	Original Member
Oman	7 October 1971
Pakistan	30 September 1947
Palau	15 December 1994
Panama	Original Member
Papua New Guinea	10 October 1975
Paraguay	Original Member
Peru	" "
Philippines	" "
Poland	" "
Portugal	14 December 1955
Qatar	21 September 1971
Republic of Korea	17 September 1991
Romania	14 December 1955
Russian Federation	Original Member
Rwanda	18 September 1962
St. Kitts and Nevis	23 September 1983
St. Lucia	18 September 1979
St. Vincent and the Grenadines	16 September 1980
Samoa	15 December 1976
San Marino	2 March 1992
Sao Tome and Principe	16 September 1975
Saudi Arabia	Original Member
Senegal	28 September 1960
Seychelles	21 September 1976
Sierra Leone	27 September 1961
Singapore	21 September 1965
Slovakia	19 January 1993
Slovenia	22 May 1992
Solomon Islands	19 September 1978
Somalia	20 September 1960

State	*Date of Admission*
South Africa	Original Member
Spain	14 December 1955
Sri Lanka	" "
Sudan	12 November 1956
Suriname	4 December 1975
Swaziland	24 September 1968
Sweden	19 November 1946
Syrian Arab Republic	Original Member
Tajikistan	2 March 1992
Thailand	16 December 1946
The former Yugoslav Republic of Macedonia	8 April 1993
Togo	20 September 1960
Trinidad and Tobago	18 September 1962
Tunisia	12 November 1956
Turkey	Original Member
Turkmenistan	2 March 1992
Uganda	25 October 1962
Ukraine	Original Member
United Arab Emirates	9 December 1971
United Kingdom of Great Britain and Northern Ireland	Original Member
United Republic of Tanzania	14 December 1961
United States of America	Original Member
Uruguay	" "
Uzbekistan	2 March 1992
Vanuatu	15 September 1981
Venezuela	Original Member
Viet Nam	20 September 1977
Yemen	30 September 1947
Yugoslavia	Original Member
Zaire	20 September 1960
Zambia	1 December 1964
Zimbabwe	25 August 1980

(b) *States, not members of the United Nations, parties to the Statute*[1]

Article 93, paragraph 2, of the Charter of the United Nations provides that States which are not members of the United Nations may become parties to the Statute of the Court on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

The conditions laid down have hitherto been the same in each case. They were laid down for the first time as a result of a request by the Swiss

[1] The full text of the resolutions referred to in this section is given on pages 175-183 of *I.C.J. Acts and Documents No. 5*.

Federal Council; on that occasion the General Assembly, on 11 December 1946, adopted resolution 91 (I) which prescribed the following conditions:

> "*(a)* Acceptance of the provisions of the Statute of the International Court of Justice;
>
> *(b)* Acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> *(c)* An undertaking to contribute to the expenses of the Court such equitable amount as the General Assembly shall assess from time to time after consultation with the Swiss Government."[1]

The date on which the State concerned becomes a party to the Statute is that of the deposit with the Secretary-General of the United Nations of the instrument of acceptance of the conditions.

Pursuant to Article 4, paragraph 3, of the Statute, the conditions on which such a State may participate in the election of Members of the Court were laid down in resolution 264 (III) adopted by the General Assembly, upon the recommendation of the Security Council, on 8 October 1948. The operative part of this resolution lays down that:

> "1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly.
>
> 2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.
>
> 3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections if it is satisfied that the failure to pay is due to conditions beyond the control of that State (see Charter, Article 19)."

The participation of such States in the procedure for amending the Statute of the Court (Charter, Art. 108; Statute, Art. 69) is governed by the following provisions of resolution 2520 (XXIV) adopted by the General Assembly, upon the recommendation of the Security Council, on 4 December 1969:

> "*(a)* A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;
>
> *(b)* Amendments to the Statute of the International Court of Jus-

[1] See below, Chap. VIII, p. 265.

tice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two-thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two-thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."

The following States not members of the United Nations are at present parties to the Statute[1]:

State	*Resolution of the General Assembly*	*Deposit of the instrument of acceptance*
Nauru	42/21, 18 November 1987	29 January 1988
Switzerland	91 (I), 11 December 1946	28 July 1948

(c) *States, not parties to the Statute, to which the Court may be open*

The Court, which is open to States parties to the Statute, is also open to other States, in accordance with Article 35, paragraph 2, of the Statute[2]. This Article provides that the conditions upon which the Court shall be open to such States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

On 15 October 1946, the Security Council adopted resolution 9 (1946) which reads as follows:

"The Security Council

In virtue of the powers conferred upon it by Article 35, paragraph 2, of the Statute of the International Court of Justice and subject to the provisions of that Article,

Resolves that:

1. The International Court of Justice shall be open to a State which is not a party to the Statute of the International Court of Justice, upon the following condition, namely, that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Charter of the United Nations and with the terms and subject to the conditions of the Statute and Rules of the Court, and undertakes to comply in good faith with the decision or decisions of the Court and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter;

---

[1] Before becoming Members of the United Nations, Japan, Liechtenstein and San Marino were parties to the Statute of the Court, as from 2 April 1954, 29 March 1950 and 18 February 1954 respectively.

[2] See also Rules, Art. 26, para. 1 *(c)*, and Art. 41, and below, Chap. VIII, p. 265.

2. Such declaration may be either particular or general. A particular declaration is one accepting the jurisdiction of the Court in respect only of a particular dispute or disputes which have already arisen. A general declaration is one accepting the jurisdiction generally in respect of all disputes or of a particular class or classes of disputes which have already arisen or which may arise in the future. A State, in making such a general declaration, may, in accordance with Article 36, paragraph 2, of the Statute, recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court, provided, however, that such acceptance may not, without explicit agreement, be relied upon vis-à-vis States parties to the Statute which have made the declaration in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice;

3. The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court, in accordance with the practice of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all States parties to the Statute of the International Court of Justice, and to such other States as shall have deposited a declaration under the terms of this resolution, and to the Secretary-General of the United Nations;

4. The Security Council reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court, and on the receipt of such communication and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court;

5. All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court."

In the past, particular declarations have been filed by Albania (1947) and by Italy (1953), and general declarations by Cambodia (1952), Ceylon (1952), the Federal Republic of Germany (1955, 1956, 1961, 1965 and 1971), Finland (1953 and 1954), Italy (1955), Japan (1951), Laos (1952), and the Republic of Viet Nam (1952).

2. Basis of the Court's Jurisdiction

The jurisdiction of the Court in contentious proceedings is based on the consent of the States to which it is open[1]. The form in which this consent

[1] In the following eight cases, the Court found that it could take no further steps upon an Application in which it was admitted that the opposing party did not accept its jurisdiction: *Treatment in Hungary of Aircraft and Crew of United States of America (United States of America* v. *Hungary) (United States of America* v. *USSR); Aerial Incident of 10 March 1953 (United States of America* v. *Czechoslovakia); Antarctica (United Kingdom* v. *Argentina) (United Kingdom* v. *Chile); Aerial Incident of 7 October 1952 (United States of America* v. *USSR); Aerial Incident of 4 September 1954 (United States of America* v. *USSR); Aerial Incident of 7 November 1954 (United States of America* v. *USSR).*

is expressed determines the manner in which a case may be brought before the Court.

(a) *Special agreement*

Article 36, paragraph 1, of the Statute provides that the jurisdiction of the Court comprises all cases which the parties refer to it. Such cases normally come before the Court by notification to the Registry of an agreement known as a *special agreement* and concluded by the parties specially for this purpose[1]. The subject of the dispute and the parties must be indicated (Statute, Art. 40, para. 1; Rules, Art. 39).

(b) *Cases provided for in treaties and conventions*

Article 36, paragraph 1, of the Statute provides also that the jurisdiction of the Court comprises all matters specially provided for in treaties and conventions in force. In such cases a matter is normally brought before the Court by means of a written *application instituting proceedings*; this is a unilateral document which must indicate the subject of the dispute and the parties (Statute, Art. 40, para. 1) and, as far as possible, specify the provision on which the applicant founds the jurisdiction of the Court (Rules, Art. 38).

A list of treaties and conventions governing the jurisdiction of the International Court of Justice in contentious cases is given in Chapter IV (Sec. III) of the present *Yearbook* (pp. 120-137). Furthermore, some of the agreements and conventions mentioned in Section I of Chapter IV (pp. 73-79) relate, in particular, to the jurisdiction of the Court in contentious proceedings.

To these instruments must be added other treaties and conventions concluded earlier and conferring jurisdiction upon the *Permanent Court of International Justice*, for Article 37 of the Statute of the International Court of Justice stipulates that whenever a treaty or convention in force

[1] The following 12 cases were submitted to the Court by means of special agreements: *Asylum (Colombia/Peru)*; *Minquiers and Ecrehos (France/United Kingdom)*; *Sovereignty over Certain Frontier Land (Belgium/Netherlands)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*; *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (case referred to a Chamber); *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)* (case referred to a Chamber); *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*; *Gabčikovo-Nagymaros Project (Hungary/Slovakia)*. In the *Corfu Channel (United Kingdom* v. *Albania)* case the Parties made a special agreement after delivery of the Judgment on the Preliminary Objection. The case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras* v. *Nicaragua)* was submitted by means of an application, but the Parties had previously concluded an agreement on the procedure to be followed in submitting the dispute to the Court.

provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the *Permanent Court of International Justice*, the matter shall, as between the parties to the Statute, be referred to the International Court of Justice. The *Permanent Court* reproduced, in 1932, in its *Collection of Texts governing the Jurisdiction of the Court* (*P.C.I.J., Series D, No. 6*, fourth edition) and subsequently in Chapter X of its *Annual Reports* (*P.C.I.J., Series E, Nos. 8-16*) the relevant provisions of the instruments governing its jurisdiction. By virtue of the Article referred to above, some of these provisions now govern the jurisdiction of the International Court of Justice.

(c) *Compulsory jurisdiction in legal disputes*

The Statute provides that a State may recognize as compulsory, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes. These cases are brought before the Court by means of written applications. The conditions on which such compulsory jurisdiction may be recognized are stated in paragraphs 2-5 of Article 36 of the Statute, which read as follows:

> "2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
>
> (*a*) the interpretation of a treaty;
> (*b*) any question of international law;
> (*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
> (*d*) the nature or extent of the reparation to be made for the breach of an international obligation.
>
> 3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.
>
> 4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.
>
> 5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms."

Texts of declarations accepting the compulsory jurisdiction of the Court are given in Section II of Chapter IV below (pp. 79-119).

(d) *The Court itself decides any question as to its jurisdiction*

Article 36, paragraph 6, of the Statute provides that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. Article 79 of the Rules lays down the conditions which govern the filing of preliminary objections[1].

(e) *Interpretation of a judgment*

Article 60 of the Statute provides that in the event of dispute as to the meaning or scope of a judgment, the Court shall construe it upon the request of any party. The request for interpretation may be made either by means of a special agreement between the parties or of an application by one or more of the parties (Rules, Art. 98)[2].

(f) *Revision of a judgment*

An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a deci-

[1] Preliminary objections were raised in the following 25 cases: *Corfu Channel (United Kingdom* v. *Albania); Rights of Nationals of the United States of America in Morocco (France* v. *United States of America); Ambatielos (Greece* v. *United Kingdom); Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Nottebohm (Liechtenstein* v. *Guatemala); Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America); Certain Norwegian Loans (France* v. *Norway); Right of Passage over Indian Territory (Portugal* v. *India); Interhandel (Switzerland* v. *United States of America); Aerial Incident of 27 July 1955 (Israel* v. *Bulgaria) (United States of America* v. *Bulgaria); Barcelona Traction, Light and Power Company, Limited (Belgium* v. *Spain); Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon); Temple of Preah Vihear (Cambodia* v. *Thailand); South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa); Northern Cameroons (Cameroon* v. *United Kingdom); Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain); Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy); Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America); Certain Phosphate Lands in Nauru (Nauru* v. *Australia); Oil Platforms (Islamic Republic of Iran* v. *United States of America); Questions of Interpretation and Application of the 1971 Montreal Convention arising out of the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America); Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*. Questions of jurisdiction or admissibility have also been raised in the following 13 cases: *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan); Fisheries Jurisdiction (United Kingdom* v. *Iceland; Federal Republic of Germany* v. *Iceland); Nuclear Tests (Australia* v. *France) (New Zealand* v. *France); Trial of Pakistani Prisoners of War (Pakistan* v. *India); Aegean Sea Continental Shelf (Greece* v. *Turkey); United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran); Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America); Border and Transborder Armed Actions (Nicaragua* v. *Honduras); Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain); East Timor (Portugal* v. *Australia); Fisheries Jurisdiction (Spain* v. *Canada)*.

[2] An application for interpretation of the Judgment was made by Colombia in respect of the *Asylum (Colombia/Peru)* case. Cf. note 1, p. 71, below.

sive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such party's ignorance was not due to negligence (Statute, Art. 61, para. 1). A request for revision is made by means of an application (Rules, Art. 99)[1].

II. Advisory Jurisdiction

The advisory jurisdiction of the Court is governed by Article 65 of the Statute and Article 96 of the Charter of the United Nations.

By virtue of Article 65 of the Statute, the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. An exact statement of the questions upon which the advisory opinion is asked must be contained in a *request for an advisory opinion*.

Article 96, paragraph 1, of the Charter provides that advisory opinions may be asked of the Court by the General Assembly or the Security Council on any legal question. Paragraph 2 of this Article adds:

> "Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

The following organs and agencies are at present authorized to request advisory opinions[2]:

United Nations:

General Assembly[3],

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[1] An application for revision and interpretation of the Judgment was filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

[2] The International Refugee Organization, which had been authorized to request advisory opinions of the Court, ceased to exist in 1952. The Havana Charter for an International Trade Organization, which provides for the jurisdiction of the Court in proceedings in regard to advisory opinions, has not entered into force.

[3] The General Assembly has requested 14 advisory opinions of the Court in the following 13 cases: *Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter); Reparation for Injuries Suffered in the Service of the United Nations; Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase;* id., *Second Phase; Competence of the General Assembly for the Admission of a State to the United Nations; International Status of South West Africa; Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide; Effect of Awards of Compensation Made by the United Nations Administrative Tribunal; Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa; Admissibility of Hearings of Petitioners by the Committee on South West Africa; Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter); Western Sahara; Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947; Legality of the Threat or Use of Nuclear Weapons.*

Security Council[1],
Economic and Social Council[2],
Trusteeship Council,
Interim Committee of the General Assembly,
Committee on Applications for Review of Administrative Tribunal Judgements[3];
International Labour Organisation;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization[4];
World Health Organization[5];
International Bank for Reconstruction and Development;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Civil Aviation Organization;
International Telecommunication Union;
International Fund for Agricultural Development;
World Meteorological Organization;
International Maritime Organization[6];
World Intellectual Property Organization;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

In Section I of Chapter IV of the present *Yearbook* (pp. 73-79) will be found references to the instruments by virtue of which such requests may be submitted by the above organs and agencies.

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[1] The Security Council requested an advisory opinion of the Court concerning the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*.

[2] The Economic and Social Council requested an advisory opinion of the Court in the case concerning the *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations*.

[3] The Committee on Applications for Review of Administrative Tribunal Judgements requested an advisory opinion in the following three cases: *Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal; Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal; Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal*.

[4] The Executive Board of Unesco requested an advisory opinion of the Court concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco*.

[5] The World Health Assembly requested an advisory opinion of the Court concerning two cases: *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* and *Legality of the Use by a State of Nuclear Weapons in Armed Conflict*.

[6] The Assembly of this organization requested an advisory opinion of the Court concerning the *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization*.

CHAPTER IV

TEXTS GOVERNING THE JURISDICTION OF THE COURT

The present chapter, which is compiled from the information available to the Registry, presents a compendium of instruments governing the jurisdiction of the Court. It takes into account, so far as the Registry is informed of them, any amendments to those instruments which have affected their provisions concerning the jurisdiction of the Court. The inclusion or omission of any instrument should not be regarded as an indication of any view entertained by the Registry, or *a fortiori* by the Court, regarding the nature, scope or validity of the instrument in question.

I. Instruments Governing the Relationship of Organs of the United Nations and International Organizations with the Court

This section lists provisions for the contentious or advisory jurisdiction of the Court in the following categories of instruments: constitutional texts of public international organizations; agreements concluded between the United Nations and other international organizations; authorizations accorded by the General Assembly of the United Nations to other organs of the United Nations or to international organizations by virtue of Article 96, paragraph 2, of the Charter; multilateral conventions relating to the privileges and immunities of world-wide international organizations; agreements concluded by international organizations with States.

1. United Nations

Authorization to the *General Assembly* and the *Security Council* to request advisory opinions of the International Court of Justice: Charter, Article 96, paragraph 1.

Authorization to the *Economic and Social Council* to request advisory opinions of the International Court of Justice: resolution 89 (I) of the General Assembly, 11 December 1946.

Authorization to the *Trusteeship Council* to request advisory opinions of the International Court of Justice: resolution 171 (II) of the General Assembly, 14 November 1947, paragraph B.

Authorization to the *Interim Committee of the General Assembly* to request advisory opinions of the International Court of Justice: resolution 196 (III) of the General Assembly, 3 December 1948, paragraph 3[1].

Authorization to the *Committee on Applications for Review of Judgements of the United Nations Administrative Tribunal* to request advisory opinions of the International Court of Justice: Statute of the United Nations Administrative Tribunal, as amended by resolution 957 (X) of the General Assembly, 8 November 1955, Article 11[2].

Convention on the privileges and immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Article VIII, Section 30 (United Nations, *Treaty Series*, I, No. 4, Vol. 1).

Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 26 June 1947, Article VIII, Section 21 (United Nations, *Treaty Series*, I, No. 147, Vol. 11).

Agreement between Chile and the United Nations Economic Commission for Latin America regulating conditions for the operation, in Chile, of the Headquarters of the Commission, 16 February 1953, Article XI, Section 21 (United Nations, *Treaty Series*, I, No. 4541, Vol. 314).

Agreement between the United Nations and Thailand relating to the Headquarters of the Economic Commission for Asia and the Far East in Thailand, 26 May 1954, Article XIII, Section 26 (United Nations, *Treaty Series*, I, No. 3703, Vol. 260).

Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa, 18 June 1958, Article IX (United Nations, *Treaty Series*, I, No. 4597, Vol. 317).

Agreement between the United Nations and Japan regarding the Headquarters of the United Nations University, 14 May 1976, Section 22 (United Nations, *Treaty Series*, I, No. 14839, Vol. 1009).

Agreement between the United Nations and Greece regarding the headquarters of the Co-ordinating Unit for the Mediterranean Action Plan, 11 February 1982, Section 26 (United Nations, *Treaty Series*, I, No. 20736, Vol. 1261).

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[1] The mandate of the Interim Committee was extended indefinitely by resolution 295 (IV) of the General Assembly of 21 November 1949, paragraph 3 of which preserved its authority to request advisory opinions of the Court.

[2] Article not applicable to Judgements concerning the staff of the International Civil Aviation Organization or Inter-Governmental Maritime Consultative Organization (now International Maritime Organization), which have both, however, accepted the jurisdiction of the United Nations Administrative Tribunal.

2. All Specialized Agencies

Convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on 21 November 1947, Article VII, Section 24, and Article IX, Section 32 (United Nations, *Treaty Series*, I, No. 521, Vol. 33).

3. International Labour Organisation

Instrument for the amendment of the Constitution of the International Labour Organisation, 9 October 1946, Articles 29, 31-34 and 37 (United Nations, *Treaty Series*, I, No. 229, Vol. 15).

Agreement between the United Nations and the International Labour Organisation, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 9, Vol. 1).

Statute of the Administrative Tribunal of the International Labour Organisation, adopted by the International Labour Conference on 9 October 1946 and modified by the Conference on 29 June 1949, Article XII[1].

4. Food and Agriculture Organization of the United Nations

Constitution of the Food and Agriculture Organization of the United Nations, 16 October 1945, as amended in 1957, Article XVII (Food and Agriculture Organization of the United Nations, *Basic Texts*, Vol. I, 1968).

Agreement between the United Nations and the Food and Agriculture Organization of the United Nations, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 10, Vol. 1).

Terms of appointment of the Director-General of the Food and Agriculture Organization of the United Nations: recommendation by the Conference of the Organization, 27 October 1945, paragraph 3 (Food and Agriculture Organization of the United Nations, *Report of the First Session of the Conference*, 16 October-1 November 1945).

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[1] The jurisdiction of this Tribunal, which is open to officials of the International Labour Organisation or other persons claiming under the terms of appointment of an official, has been recognized also by the following international organizations, which are authorized to request advisory opinions: Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; World Meteorological Organization; World Intellectual Property Organization; International Atomic Energy Agency.

5. United Nations Educational, Scientific and Cultural Organization

Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, Articles V, paragraph 11 (adopted in 1952), and XIV, paragraph 2 (United Nations, *Treaty Series*, I, No. 52, Vol. 4)[1].

Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization, approved by the General Assembly of the United Nations on 14 December 1946, as revised and approved by the General Assembly of the United Nations on 8 December 1962, Article X[2] (United Nations, *Treaty Series*, II, No. 11, Vol. 1; *ibid.*, General Assembly, resolution 1786 (XVII)).

Agreement between the United Nations Educational, Scientific and Cultural Organization and France regarding the Headquarters of Unesco and the privileges and immunities of the Organization on French territory, 2 July 1954, Article 29 (United Nations, *Treaty Series*, I, No. 5103, Vol. 357).

6. World Health Organization

Constitution of the World Health Organization, 22 July 1946, Articles 75-77 (United Nations, *Treaty Series*, I, No. 221, Vol. 14).

Agreement between the United Nations and the World Health Organization, approved by the General Assembly of the United Nations on 15 November 1947, Article X (United Nations, *Treaty Series*, II, No. 115, Vol. 19).

7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association

Agreement between the United Nations and the International Bank for Reconstruction and Development, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 109, Vol. 16).

Agreement on relationship between the United Nations and the International Finance Corporation, approved by the General Assembly of the United Nations on 20 February 1957, paragraph 1 (United Nations, *Treaty Series*, II, No. 546, Vol. 265).

Agreement on relationship between the United Nations and the Inter-

[1] See also Rules of Procedure of the General Conference of Unesco, Rule 33, and the Protocol of 10 December 1962 instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States parties to the Convention against Discrimination in Education, Article 18 (Unesco document 12C/Resolutions).

[2] Article XI before the revision of 1962.

national Development Association, approved by the General Assembly of the United Nations on 27 March 1961, Article I (United Nations, *Treaty Series*, II, No. 582, Vol. 394).

8. International Monetary Fund

Agreement between the United Nations and the International Monetary Fund, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 108, Vol. 16).

9. International Civil Aviation Organization

Convention on International Civil Aviation, 7 December 1944, Articles 84-86 (United Nations, *Treaty Series*, I, No. 10612, Vol. 740; ICAO, *Convention on International Civil Aviation*, 1969).

Agreement between the United Nations and the International Civil Aviation Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article X (United Nations, *Treaty Series*, II, No. 45, Vol. 8).

Agreement between the International Civil Aviation Organization and Canada regarding the Headquarters of the Organization, 14 April 1951, Article VII, Section 31 (United Nations, *Treaty Series*, I, No. 1335, Vol. 96).

10. International Telecommunication Union

Agreement between the United Nations and the International Telecommunication Union, approved by the General Assembly of the United Nations on 15 November 1947, Article VII (United Nations, *Treaty Series*, II, No. 175, Vol. 30).

11. World Meteorological Organization

Agreement between the United Nations and the World Meteorological Organization, approved by the General Assembly of the United Nations on 20 December 1951, Article VII (United Nations, *Treaty Series*, II, No. 415, Vol. 123).

12. International Maritime Organization

Convention on the Inter-Governmental Maritime Consultative Organization, 6 March 1948, entered into force on 17 March 1958, Articles 55 and 56 (United Nations, *Treaty Series*, I, No. 4214, Vol. 289)[1].

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[1] As from 22 May 1982 the Inter-Governmental Maritime Consultative Organization (IMCO) became the International Maritime Organization (IMO); the name of the organization was changed in the title of the 1948 Convention and the relevant Articles of the Convention were re-numbered 69 and 70.

Agreement between the United Nations and the Inter-Governmental Maritime Consultative Organization, approved by the General Assembly of the United Nations on 18 November 1948, entered into force on 13 January 1959, Article IX (United Nations, *Treaty Series*, II, No. 553, Vol. 324).

13. World Intellectual Property Organization

Agreement between the United Nations and the World Intellectual Property Organization, approved by the General Assembly of the United Nations on 17 December 1974, Article 12 (United Nations, *Treaty Series*, II, No. 729).

14. International Fund for Agricultural Development

Agreement between the United Nations and the International Fund for Agricultural Development, approved by the General Assembly of the United Nations on 15 December 1977, Article XIII (United Nations, *Treaty Series*, II, No. 806, Vol. 1080).

15. United Nations Industrial Development Organization

Constitution of the United Nations Industrial Development Organization, 8 April 1979, Article 22 (United Nations, *Treaty Series*, I, No. 23432, Vol. 1401).

Agreement between the United Nations Organization and the United Nations Industrial Development Organization, approved by the General Assembly of the United Nations on 17 December 1985, Article 12.

16. International Atomic Energy Agency

Statute of the International Atomic Energy Agency, 26 October 1956, Article XVII (United Nations, *Treaty Series*, I, No. 3988, Vol. 276).

Agreement concerning the relationship between the United Nations and the International Atomic Energy Agency, approved by the General Assembly of the United Nations on 14 November 1957, Article X (United Nations, *Treaty Series*, II, No. 548, Vol. 281).

Authorization to the International Atomic Energy Agency to request advisory opinions of the International Court of Justice: resolution 1146 (XII) of the General Assembly of the United Nations, 14 November 1957.

Agreement on the privileges and immunities of the International Atomic Energy Agency, approved by the Board of Governors of the Agency on 1 July 1959, Article X, Section 34 (United Nations, *Treaty Series*, I, No. 5334, Vol. 374).

Agreement between the International Atomic Energy Agency and Iraq, Lebanon, Libya, Tunisia, United Arab Republic, etc., for the establish-

ment in Cairo of a Middle Eastern regional radio-isotope centre for the Arab countries, approved by the Board of Governors of the Agency on 14 September 1962, Article XVI (United Nations, *Treaty Series*, I, No. 7236, Vol. 494).

Nordic Mutual Emergency Assistance Agreement in connection with radiation accidents, signed on 17 October 1963 by the International Atomic Energy Agency, Denmark, Finland, Norway and Sweden, Article IX (United Nations, *Treaty Series*, I, No. 7585, Vol. 525).

II. Declarations Recognizing as Compulsory the Jurisdiction of the Court

The texts of declarations under Article 36, paragraph 2, of the Statute, which had not expired by effluxion of time, or whose withdrawal or replacement had not been notified by 31 July 1995, will be found below. The fact that a declaration is or is not included in this section, is without prejudice to its possible application by the Court in a particular case.

The declaration of Georgia was deposited with the Secretary-General of the United Nations during the 12 months under review, on 20 June 1995, and was the first such declaration made by that State.

In view of the provisions of Article 36, paragraph 5, of the Statute of the International Court of Justice, the present section also contains the texts of declarations made under the Statute of the *Permanent Court of International Justice* which have not lapsed or been withdrawn. There are now seven such declarations.

The declarations, deposited by a total of 59 States[1], are given here in English[2]. Where this is not the original language of the declaration, the translations used, except where otherwise indicated, are by the Secretariat of the United Nations or of the League of Nations.

The date shown after the name of the State is that on which the declaration was deposited.

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[1] Since 1951, twelve other declarations relating to the jurisdiction of the International Court of Justice, either expressly or by virtue of Article 36, paragraph 5, of the Statute, have expired, been withdrawn or been terminated without being subsequently replaced. These were the declarations of the following States: Bolivia, Brazil, China, El Salvador, France, Guatemala, Iran, Israel, South Africa, Thailand, Turkey and the United States (United Nations, *Treaty Series*, I, No. 261, Vol. 16; I, No. 237, Vol. 15; I, No. 5, Vol. 1; *I.C.J. Yearbook 1987-1988*, pp. 70-72; United Nations, *Treaty Series*, I, No. 8196, Vol. 562; I, No. 12, Vol. 1; *I.C.J. Yearbook 1946-1947*, p. 211; *I.C.J. Yearbook 1984-1985*, pp. 79-80; United Nations, *Treaty Series*, I, No. 2935, Vol. 216; I, No. 844, Vol. 65; I, No. 50, Vol. 4; *I.C.J. Yearbook 1984-1985*, pp. 99-100).

[2] French texts of the declarations are given in the French counterpart of the *I.C.J. Yearbook*, the *C.I.J. Annuaire*.

AUSTRALIA

17 III 75.

Whereas on the first day of November one thousand nine hundred and forty-five Australia ratified the Charter of the United Nations of which the Statute of the International Court of Justice is an integral part; and

Whereas Australia made a declaration under paragraph 2 of Article 36, of the said Statute on the sixth day of February, one thousand nine hundred and fifty-four[1]; and

Whereas Australia desires to withdraw the said declaration;

The Government of Australia hereby withdraws the said declaration and declares for and on behalf of Australia that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to withdraw this declaration.

The Government of Australia further declares that this declaration does not apply to any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement.

In witness whereof, I, Edward Gough Whitlam, Prime Minister acting for and on behalf of the Minister of State for Foreign Affairs of Australia, have hereunto set my hand and affixed the seal of the Minister of State for Foreign Affairs.

Dated this thirteenth day of March, one thousand nine hundred and seventy-five.

(Signed) E. G. WHITLAM,
Prime Minister acting for and on behalf of the Minister of State for Foreign Affairs of Australia.

AUSTRIA

19 V 71.

I hereby declare that the Republic of Austria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute in respect of which the

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[1] United Nations, *Treaty Series*, I, No. 2484, Vol. 186.

parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force for a period of five years and thereafter until it will be terminated or modified by a written declaration.

Done at Vienna on 28 April 1971.

(Signed) JONAS,
The Federal President.

In witness whereof the present declaration has been countersigned by the Federal Chancellor and the Minister for Foreign Affairs and the national seal of the Republic of Austria has been affixed thereto.

(Signed) Bruno KREISKY,
The Federal Chancellor.
(Signed) Rudolf KIRCHSCHLAEGER,
The Federal Minister for Foreign Affairs.

BARBADOS

1 VIII 80.

I have the honour to declare on behalf of the Government of Barbados that:

The Government of Barbados accepts as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court until such time as notice might be given to terminate the acceptance, over all disputes arising after the declaration is made, other than:

(a) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement,
(b) disputes with the government of any other country which is a Member of the Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree,
(c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Barbados,
(d) disputes arising out of or concerning jurisdiction or rights claimed or exercised by Barbados in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Barbados.

24 July 1980.

(Signed) H. de B. FORDE,
Minister of External Affairs.

BELGIUM[1]

[Translation from the French] 17 VI 58.

I declare on behalf of the Belgian Government that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in legal disputes arising after 13 July 1948 concerning situations or facts subsequent to that date, except those in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement.

This declaration is made subject to ratification[2]. It shall take effect on the day of deposit of the instrument of ratification for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Brussels, 3 April 1958.

(Signed) V. LAROCK,
Minister
for Foreign Affairs.

BOTSWANA

16 III 70.

I, Sir Seretse Khama, President of the Republic of Botswana, have the honour to declare on behalf of the Government of the Republic of Botswana, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Republic of Botswana.

The Government of the Republic of Botswana also reserves the right at any time, by means of a notification addressed to the Secretary-General

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[1] Belgium had deposited in 1948 a declaration valid for five years (United Nations, *Treaty Series*, I, No. 260, Vol. 16).

[2] The instrument of ratification was deposited on 17 June 1958.

of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Done at Gaborone this 14th day of January in the year of our Lord one thousand nine hundred and seventy.

(Signed) Seretse M. KHAMA,
President.

BULGARIA

[Translation from the Bulgarian] 24 VI 1992.

On behalf of the Government of the Republic of Bulgaria, I have the honour to declare that in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice the Republic of Bulgaria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes arising out of facts and situations subsequent to or continuing to exist after the entry into force of the present Declaration, concerning:

1. the interpretation of a treaty;
2. any question of international law;
3. the existence of any fact which, if established, would constitute a breach of an international obligation;
4. the nature or extent of the reparation to be made for the breach of an international obligation,

except for disputes with any State which has accepted the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute less than twelve months prior to filing an application bringing the dispute before the Court or where such acceptance has been made only for the purpose of a particular dispute.

The Republic of Bulgaria also reserves the right at any time to modify the present Declaration, the modifications taking effect six months after the deposit of the notification thereof.

The present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations. It shall continue in force thereafter until six months after a notice of its denunciation is given to the Secretary-General of the United Nations.

Sofia, 26 May 1992.

(Signed) S. GANEV,
Minister of Foreign Affairs
of the Republic of Bulgaria.

CAMBODIA

[Translation from the French] 19 IX 57.

On behalf of the Royal Government of Cambodia I have the honour to declare that, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State Member of the United Nations accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the said Court in all legal disputes, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(2) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Kingdom of Cambodia;
(3) disputes relating to any matter excluded from judicial settlement or compulsory arbitration by virtue of any treaty, convention or other international agreement or instrument to which the Kingdom of Cambodia is a party.

This declaration is valid for ten years from the date of its deposit. It shall remain in force thereafter until notice to the contrary has been given by the Royal Government of Cambodia.

Phnom-Penh, 9 September 1957.

(Signed) SIM VAR.

CAMEROON

[Translation from the French by the Registry] 3 III 94.

On behalf of the Government of the Republic of Cameroon, I have the honour to declare that:

The Government of the Republic of Cameroon, in accordance with Article 36, paragraph 2, of the Statute of the Court, recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes.

This declaration shall remain in force for a period of five years. It shall subsequently continue to produce effect until contrary notification or written amendment by the Government of the Republic of Cameroon.

(Signed) Ferdinand Léopold OYONO,
Minister for Foreign Affairs.

CANADA

10 V 94.

On behalf of the Government of Canada,

(1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 10 September 1985[1] in conformity with paragraph 2 of Article 36 of the Statute of the Court.

(2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:

(a) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(b) disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada; and

(d) disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures.

(3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification be communicated to the Governments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

New York, 10 May 1994.

(Signed) Louise FRÉCHETTE,
Ambassador and
Permanent Representative.

[1] *I.C.J. Yearbook 1992-1993*, pp. 79-80.

COLOMBIA[1]

[Translation from the French] 30 X 37.

The Republic of Colombia recognizes as compulsory, *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the Permanent Court of International Justice, in accordance with Article 36 of the Statute.

The present declaration applies only to disputes arising out of facts subsequent to 6 January 1932.

Geneva, 30 October 1937.

(Signed) J. M. YEPES,
Legal Adviser of the Permanent Delegation
of Colombia to the League of Nations.

COSTA RICA

[Translation from the Spanish] 20 II 73.

The Government of Costa Rica recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes of the kinds referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice. This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless denounced before the expiration of the said period.

San José, 5 February 1973.

(Signed) Gonzalo J. FACIO,
Minister for Foreign Affairs.

CYPRUS

29 IV 88.

I have the honour on behalf of the Government of the Republic of Cyprus to declare, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, that the Republic of Cyprus accepts as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the Court, in relation to any

[1] An instrument of ratification was deposited on 30 October 1937. Ratification was not required under the terms of the Optional Clause, the act of signature itself sufficing to make the undertaking binding, except where the declaration has been made expressly subject to ratification. Nevertheless, certain States, which had signed without any such reservation, subsequently ratified their declarations.

other State accepting the same obligation, over all legal disputes concerning:

(a) the interpretation of any treaty –

I. to which the Republic of Cyprus became a Party on or after 16 August 1960 or

II. which the Republic of Cyprus recognizes as binding on it by succession;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

Provided that this declaration shall not apply:

(a) to disputes relating to questions which fall within the domestic jurisdiction of the Republic of Cyprus;

(b) where the declaration recognizing the compulsory jurisdiction of the International Court of Justice on behalf of any other Party to the dispute was deposited with the Secretary-General of the United Nations less than six months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Cyprus reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw this declaration or any of the foregoing reservations or any that may hereafter be added.

Nicosia, 19 April 1988.

(Signed) George IACOVOU,
Minister of Foreign Affairs.

DENMARK[1]

[Translation from the French] 10 XII 56.

In conformity with the Royal Decree of 3 December 1956, I have the honour, on behalf of the Danish Government, to make the following declaration:

Pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, the Kingdom of Denmark recognizes as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, for a period of five years from 10 December 1956

[1] This declaration replaced that of 10 December 1946, which had been made for a period of ten years as from that date (United Nations, *Treaty Series*, I, No. 10, Vol. 1).

and thereafter for further periods of five years, if this declaration is not denounced by notice of not less than six months before the expiration of any five-year period.

New York, 10 December 1956.

(Signed) Karl I. ESKELUND,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative
to the United Nations.

DOMINICAN REPUBLIC

[Translation from the French] 30 IX 24.

On behalf of the Government of the Dominican Republic and subject to ratification[1], I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Geneva, 30 September 1924.

(Signed) Jacinto R. DE CASTRO.

EGYPT

22 VII 57.

I, Mahmoud Fawzi, Minister for Foreign Affairs of the Republic of Egypt, declare on behalf of the Government of the Republic of Egypt, that, in accordance with Article 36 (2) of the Statute of the International Court of Justice and in pursuance and for the purposes of paragraph 9 *(b)* of the Declaration of the Government of the Republic of Egypt dated 24 April 1957, on "the Suez Canal and the arrangements for its operation"[2], the Government of the Republic of Egypt accept as compulsory *ipso facto*, on condition of reciprocity and without special agreement, the jurisdiction of the International Court of Justice in all legal disputes that may arise under the said paragraph 9 *(b)* of the above Declaration dated 24 April 1957, with effect as from that date.

18 July 1957.

(Signed) Mahmoud FAWZI.

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[1] The instrument of ratification was deposited on 4 February 1933.
[2] United Nations, *Treaty Series*, I, No. 3821, Vol. 265.

ESTONIA

21 X 91.

I, Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, declare on behalf of the Republic of Estonia and in accordance with the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia, that the Republic of Estonia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court,

provided that this declaration shall not apply to disputes, the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Tallinn, 10 October 1991.

(Signed) A. RÜÜTEL,
Chairman of the Supreme Council.

FINLAND

[Translation from the French] 25 VI 58.

On behalf of the Finnish Government, I hereby declare that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, for a period of five years from 25 June 1958. This declaration shall be renewed by tacit agreement for further periods of the same duration, unless it is denounced not later than six months before the expiry of any such period. This declaration shall apply only to disputes arising in regard to situations or facts subsequent to 25 June 1958.

New York, 25 June 1958.

(Signed) G. A. GRIPENBERG,
Permanent Representative of Finland
to the United Nations.

GAMBIA

22 VI 66.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare, on behalf of the Government of the Gambia, that the Gambia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the

same obligation, the jurisdiction of the International Court of Justice until such time as notice may be given to terminate the acceptance, over all disputes arising in the future concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration does not apply to

(a) disputes in regard to which the parties have agreed to a settlement other than by recourse to the International Court of Justice;
(b) disputes with any country in the Commonwealth;
(c) disputes which, by international law, fall exclusively within the jurisdiction of the Gambia.

Bathurst, 14 June 1966.

(Signed) A. B. N'JIE,
Minister of State for External Affairs.

GEORGIA

20 VI 95.

I have the honour on behalf of the Republic of Georgia to declare that, in accordance with paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Republic of Georgia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

Tbilisi, 16 June 1995.

(Signed) Alexander CHIKVAIDZE,
Minister of Foreign Affairs
of the Republic of Georgia.

GREECE

[Translation from the French] 10 I 94.

I declare, on behalf of the Greek Government, that I recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in Article 36, paragraph 2, of the Statute of the Court. However, the Greek Government excludes from the competence of the

Court any dispute relating to defensive military action taken by the Hellenic Republic for reasons of national defence.

This declaration shall remain in force for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Athens, 20 December 1993.

(Signed) Karolos PAPOULIAS,
Minister for Foreign Affairs.

GUINEA-BISSAU

[Translation from the French] 7 VIII 89.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Republic of Guinea-Bissau accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in Article 36, paragraph 2, of the Statute thereof.

This declaration will remain in force until six months following the date on which the Government of Guinea-Bissau makes known its intention of terminating it.

New York, 7 August 1989.

(Signed) Raul A. DE MELO CABRAL,
Chargé d'affaires a.i.

HAITI

[Translation from the French] 4 X 21.

On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(Signed) F. ADDOR,
Consul.

HONDURAS

[Translation from the Spanish] 6 VI 86.

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36, paragraph 2, of the Statute of the International Court of Justice, *hereby declares* that it modifies the Declaration made by it on 20 February 1960[1] as follows:

[1] *I.C.J. Yearbook 1984-1985*, pp. 78-79.

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

   (a) the interpretation of a treaty;
   (b) any question of international law;
   (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
   (d) the nature or extent of the reparation to be made for the breach of an international obligation.

2. This Declaration shall not apply, however, to the following disputes to which the Republiic of Honduras may be a party:

   (a) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
   (b) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;
   (c) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;
   (d) disputes referring to:

      (i) territorial questions with regard to sovereignty over islands, shoals and keys; internal waters, bays, the territorial sea and the legal status and limits thereof;
      (ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;
      (iii) the airspace over the territories, waters and zones referred to in this subparagraph.

3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.

4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(Signed) José AZCONA H.,
President of the Republic.

(Signed) Carlos LÓPEZ CONTRERAS,
The Secretary of State for Foreign Affairs.

HUNGARY

22 X 92.

The Republic of Hungary hereby recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court in all disputes which may arise in respect of facts or situations subsequent to this declaration, other than:

(a) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(b) disputes in regard to matters which by international law fall exclusively within the domestic jurisdiction of the Republic of Hungary;

(c) disputes relating to, or connected with, facts or situations of hostilities, war, armed conflicts, individual or collective actions taken in self-defence or the discharge of any functions pursuant to any resolution or recommendation of the United Nations, and other similar or related acts, measures or situations in which the Republic of Hungary is, has been or may in the future be involved;

(d) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Hungary reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect of six months of such notification to amend, add to or withdraw any of the foregoing reservations or any that may hereafter be added.

This declaration shall remain in force until the expiration of six months after notification has been given of its termination.

Budapest, 7 October 1992.

(Signed) Dr. GÉZA JESZENSZKY,
Minister for Foreign Affairs
of the Republic of Hungary.

INDIA

18 IX 74.

I have the honour to declare, on behalf of the Government of the Republic of India, that they accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without

special agreement, and on the basis and condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
(2) disputes with the government of any State which is or has been a Member of the Commonwealth of Nations;
(3) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of India;
(4) disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies, and other similar or related acts, measures or situations in which India is, has been or may in future be involved;
(5) disputes with regard to which any other party to a dispute has accepted the compulsory jurisdiction of the International Court of Justice exclusively for or in relation to the purposes of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of a party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court;
(6) disputes where the jurisdiction of the Court is or may be founded on the basis of a treaty concluded under the auspices of the League of Nations, unless the Government of India specially agree to jurisdiction in each case;
(7) disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction;
(8) disputes with the government of any State with which, on the date of an application to bring a dispute before the Court, the Government of India has no diplomatic relations or which has not been recognized by the Government of India;
(9) disputes with non-sovereign States or territories;
(10) disputes with India concerning or relating to:

(a) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;
(b) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone, and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;
(c) the condition and status of its islands, bays and gulfs and that of the bays and gulfs that for historical reasons belong to it;

(d) the airspace superjacent to its land and maritime territory; and

(e) the determination and delimitation of its maritime boundaries.

(11) disputes prior to the date of this declaration, including any dispute the foundations, reasons, facts, causes, origins, definitions, allegations or bases of which existed prior to this date, even if they are submitted or brought to the knowledge of the Court hereafter.

2. This declaration revokes and replaces the previous declaration made by the Government of India on 14 September 1959[1].

New Delhi, 15 September 1974.

(Signed) Swaran SINGH,
Minister for External Affairs.

JAPAN

15 IX 58.

I have the honour, by direction of the Minister for Foreign Affairs, to declare on behalf of the Government of Japan, that in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, Japan recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes which arise on and after the date of the present declaration with regard to situations or facts subsequent to the same date and which are not settled by other means of peaceful settlement.

This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.

This declaration shall remain in force for a period of five years and thereafter until it may be terminated by a written notice.

New York, 15 September 1958.

(Signed) Koto MATSUDAIRA,
Permanent Representative of Japan
to the United Nations.

KENYA

19 IV 65.

I have the honour to declare, on behalf of the Government of the Republic of Kenya that it accepts, in conformity with paragraph 2 of

[1] United Nations, *Treaty Series*, I, No. 4871, Vol. 340.

Article 36 of the Statute of the International Court of Justice until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction over all disputes arising after 12 December 1963 with regard to situations or facts subsequent to that date, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
(2) dispute with the government of any State which, on the date of this Declaration is a Member of the Commonwealth of Nations or may so become subsequently;
(3) disputes with regard to questions which by general rules of international law fall exclusively within the jurisdiction of Kenya;
(4) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of the Republic of Kenya have accepted obligations.

The Government of the Republic of Kenya reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to add to, amend, or withdraw any of the foregoing reservations. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Nairobi, 12 April 1965.

(Signed) Joseph MURUMBI,
Minister for External Affairs.

LIBERIA

20 III 52.

On behalf of the Government of the Republic of Liberia, I, Gabriel L. Dennis, Secretary of State of Liberia, subject to ratification, declare that the Republic of Liberia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State, also a party to the Statute pursuant to Article 93 of the United Nations Charter, which accepts the same obligation (i.e., subject to reciprocity), the jurisdiction of the International Court of Justice in all legal disputes arising after ratification concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration does not apply:

(a) to any dispute which the Republic of Liberia considers essentially within its domestic jurisdiction;

(b) to any dispute in regard to which the parties have agreed or may agree to bring before other tribunals as a result of agreements already existing or which may be made in the future.

The present declaration has been made for a period of five years as from the date of deposit of the ratification[1] and thereafter until notice of termination is given.

Done at Monrovia this 3rd day of March 1952.

(Signed) Gabriel L. DENNIS,
Secretary of State.

LIECHTENSTEIN

[Translation from the French] 29 III 50.

The Government of the Principality of Liechtenstein, duly authorized by His Serene Highness, the Reigning Prince François Joseph II, in accordance with the Order of the Diet of the Principality of Liechtenstein dated 9 March 1950, which came into force on 10 March 1950,

declares by these presents that the Principality of Liechtenstein recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Principality becomes a party to the Statute[2] and shall have effect as long as the declaration has not been revoked subject to one year's notice.

Done at Vaduz, 10 March 1950.

On behalf of the Government of
the Principality of Liechtenstein,
(Signed) A. FRICK,
The Head of Government.

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[1] The instrument of ratification, dated 30 March 1953, was deposited on 17 April 1953.
[2] Liechtenstein became a party to the Statute of the Court on 29 March 1950.

LUXEMBOURG[1]

[Translation from the French] 15 IX 30.

The Government of the Grand-Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present declaration is made for a period of five years. Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter.

Geneva, 15 September 1930.

(Signed) BECH.

MADAGASCAR

[Translation from the French] 2 VII 92.

On behalf of the Government of Madagascar, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that Madagascar accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and until such time as notice may be given to terminate this acceptance, the compulsory jurisdiction of the Court in all legal disputes concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration does not apply:

- to disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes relating to questions which, under international law, fall exclusively within the jurisdiction of Madagascar.

The Government of Madagascar also reserves the right to add to, amend or withdraw the foregoing reservations by means of a notification

[1] The Government of Luxembourg had in 1921 signed the Optional Clause subject to ratification. That declaration was, however, never ratified.

addressed to the Secretary-General of the United Nations, which would take effect on the date of its receipt by the Secretary-General.

Antananarivo, 12 May 1992.

(Signed) Césaire RABENORO,
Minister for Foreign Affairs.

MALAWI

12 XII 66.

On behalf of the Government of Malawi, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes which may arise in respect of facts or situations subsequent to this declaration concerning –

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation:

Provided that this declaration shall not apply to –

(i) disputes with regard to matters which are essentially within the domestic jurisdiction of the Republic of Malawi as determined by the Government of Malawi;
(ii) disputes in regard to which the parties of the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; or
(iii) disputes concerning any question relating to or arising out of belligerent or military occupation.

The Government of Malawi also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend, or withdraw any of the foregoing reservations or any that may hereafter be added. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Given under my hand in Zomba this 22nd day of November 1966.

(Signed) H. KAMUZU BANDA,
President and
Minister for External Affairs.

MALTA[1]

6 XII 66.

I have the honour to declare, on behalf of the Government of Malta, that Malta accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes with the government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;

(v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;

(vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a Party;

(vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on

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[1] By letter of 13 May 1983 to the Secretary-General of the United Nations, the Minister for Foreign Affairs notified the withdrawal, with immediate effect, of a declaration concerning a particular category of disputes which was filed on 23 January 1981 and which is reproduced in *I.C.J. Yearbook 1981-1982*, p. 78.

behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Valletta, 29 November 1966.

(Signed) G. FELICE,
Acting Minister of Commonwealth
and Foreign Affairs.

2 IX 83.

I have the honour to refer to the declaration made by the Government of Malta on 29 November 1966, and notified on 6 December 1966, concerning the compulsory jurisdiction of the International Court of Justice and to give notice that, with effect from the moment this notification is received by Your Excellency, the acceptance of the Government of Malta of the jurisdiction of the Court shall be limited to all disputes with Malta other than

(1) the disputes mentioned in paragraphs (i) to (viii) both inclusive, of the said declaration, and
(2) the following categories of disputes, that is to say:

Disputes with Malta concerning or relating to:

(a) its territory, including the territorial sea, and the status thereof,
(b) the continental shelf or any other zone of maritime jurisdiction, and the resources thereof,
(c) the determination or delimitation of any of the above,
(d) the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Malta.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

(Signed) Alex SCEBERAS TRIGON,
Minister for Foreign Affairs.

MAURITIUS

23 IX 68.

I have the honour to declare, on behalf of the Government of Mauritius, that Mauritius accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Mauritius;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Mauritius has accepted obligations;

(v) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Mauritius is a party;

(vi) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(vii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Mauritius also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Port Louis, 4 September 1968.

(Signed) S. RAMGOOLAM,
Prime Minister and
Minister for External Affairs.

MEXICO

[Translation from the Spanish] 28 X 47.

In regard to any legal dispute that may in future arise between the United States of Mexico and any other State out of events subsequent to the date of this Declaration, the Mexican Government recognizes as compulsory *ipso facto*, and without any special agreement being required therefor, the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of the Statute of the said Court, in relation to any other State accepting the same obligation, that is, on condition of strict reciprocity. This Declaration, which does not apply to disputes arising from matters that, in the opinion of the Mexican Government, are within the domestic jurisdiction of the United States of Mexico, shall be binding for a period of five years as from 1 March 1947 and after that date shall continue in force until six months after the Mexican Government gives notice of denunciation.

Mexico, D.F., 23 October 1947.

(Signed) Jaime TORRES BODET,
Secretary of State for External Relations.

NAURU

9 IX 92.

On behalf of the Government of the Republic of Nauru, I have the honour to refer to the Republic's Declaration dated 30 December 1987[1], deposited with the United Nations Secretary-General on 29 January 1988, whereby the Republic has accepted as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, and stipulated that the acceptance of the Court's jurisdiction shall extend to all disputes to which the Republic is or may be a party, other than any dispute with respect to which there exists a dispute settlement mechanism under an agreement between the Republic of Nauru and another State.

I have the further honour to declare that the aforesaid Declaration shall stand renewed and extended on 29 January 1993 and continue to be in force for a further period of five years from that date.

In witness whereof, I set my hand and the Common Seal of the Republic of Nauru, this fourth day of the month of September one thousand nine hundred and ninety-two.

(Signed) Hammer DEROBURT,
President
and Minister for External Affairs,
Republic of Nauru.

[1] *I.C.J. Yearbook 1987-1988*, p. 84.

NETHERLANDS

[Translation from the French] 1 VIII 56.

I hereby declare that the Government of the Kingdom of the Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement.

The aforesaid obligation is accepted for a period of five years and will be renewed by tacit agreement for additional periods of five years, unless notice is given, not less than six months before the expiry of any such period, that the Government of the Kingdom of the Netherlands does not wish to renew it.

The acceptance of the jurisdiction of the Court founded on the declaration of 5 August 1946[1] is terminated with effect from 6 August 1956.

New York, 1 August 1956.

(Signed) E. L. C. SCHIFF,
Acting Permanent Representative of the
Kingdom of the Netherlands to the United Nations.

NEW ZEALAND

22 IX 77.

I have the honour, by direction of the Minister of Foreign Affairs of New Zealand, to declare on behalf of the Government of New Zealand:

(I) The acceptance by the Government of New Zealand of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 1 April 1940[2] under Article 36 of the Statute of the Permanent Court of International Justice and made applicable to the International Court of Justice by paragraph 5 of Article 36 of the Statute of that Court, is hereby terminated.

(II) The Government of New Zealand accept as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court over all disputes other than:

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[1] United Nations, *Treaty Series*, I, No. 2, Vol. 1.
[2] *I.C.J. Yearbook 1976-1977*, pp. 69 f.

(1) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(2) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute: or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;

(3) disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

This Declaration shall remain in force for a period of five years from 22 September 1977 and thereafter until the expiration of six months after notice has been given of the termination of this Declaration provided that the Government of New Zealand reserves the right at any time to amend this Declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 22 September 1977.

(Signed) M. J. C. TEMPLETON,
Permanent Representative of
New Zealand to the United Nations.

NICARAGUA[1]

[Translation from the French] 24 IX 29.

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, 24 September 1929.

(Signed) T. F. MEDINA.

[1] See the Court's Judgment of 26 November 1984 (*I.C.J. Reports 1984*, p. 392).

NIGERIA

3 IX 65.

Whereas under Article 93 of the United Nations Charter all Member States are *ipso facto* parties to the Statute of the International Court of Justice;

And whereas the Government of the Federal Republic of Nigeria has decided to accept the compulsory jurisdiction of the International Court of Justice and it is necessary to make a declaration in terms of Article 36 (2) of the Statute of the Court;

Now therefore, I, Nuhu Bamali, Minister of State for External Affairs, hereby declare that the Government of the Federal Republic of Nigeria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court.

Done at Lagos, this 14th day of August, one thousand nine hundred and sixty-five.

(Signed) Nuhu BAMALI,
Minister of State
for External Affairs.

NORWAY[1]

2 IV 76.

I hereby declare on behalf of the Royal Norwegian Government that Norway recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years as from 3 October 1976. This declaration shall thereafter be tacitly renewed for additional periods of five years, unless notice of termination is given not less than six months before the expiration of the current period; provided, however, that the Royal Norwegian Government, having regard to Article 95 of the Charter of the United Nations, reserves the right at any time to amend the scope of this declaration in the light of the results of the Third United

[1] This declaration replaced that of 17 December 1956 (United Nations, *Treaty Series*, I, No. 3642, Vol. 256).

Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 2 April 1976.

(Signed) Ole ÅLGÅRD,
Permanent Representative of
Norway to the United Nations.

PAKISTAN[1]

13 IX 60.

I have the honour, by direction of the President of Pakistan, to make the following declaration on behalf of the Government of Pakistan under Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Government of Pakistan recognize as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes after 24 June 1948, arising, concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that the declaration shall not apply to:

(a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or
(b) disputes relating to questions which by international law fall exclusively within the domestic jurisdiction of Pakistan;
(c) disputes arising under a multilateral treaty unless

(i) all parties to the treaty affected by the decision are also parties to the case before the Court, or
(ii) the Government of Pakistan specially agree to jurisdiction; and

[1] This declaration replaced that of 23 May 1957 (United Nations, *Treaty Series*, I, No. 3875, Vol. 269) notice of the withdrawal and termination of which was given by letter of 12 September 1960 received on the following day by the Secretary-General of the United Nations.

provided further, that this Declaration shall remain in force till such time as notice may be given to terminate it.

New York, 12 September 1960.

(Signed) Said HASAN,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Pakistan to the
United Nations.

PANAMA[1]

[Translation from the French] 25 X 21.

On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

Paris, 25 October 1921.

(Signed) R. A. AMADOR,
Chargé d'affaires.

PHILIPPINES[2]

18 I 72.

I, Carlos P. Romulo, Secretary of Foreign Affairs of the Republic of the Philippines, hereby declare, under Article 36, paragraph 2, of the Statute of the International Court of Justice, that the Republic of the Philippines recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes arising hereafter concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to any dispute –

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[1] An instrument of ratification was deposited on 14 June 1929. Cf. the footnote to Colombia, p. 86, above.

[2] This declaration replaced that of 12 July 1947 (United Nations, *Treaty Series*, I, No. 101, Vol. 7).

(a) in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement; or

(b) which the Republic of the Philippines considers to be essentially within its domestic jurisdiction; or

(c) in respect of which the other party has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of such dispute; or where the acceptance of the compulsory jurisdiction was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court; or

(d) arising under a multilateral treaty, unless (1) all parties to the treaty are also parties to the case before the Court, or (2) the Republic of the Philippines specially agrees to jurisdiction; or

(e) arising out of or concerning jurisdiction or rights claimed or exercised by the Philippines –

(i) in respect of the natural resources, including living organisms belonging to sedentary species, of the sea-bed and subsoil of the continental shelf of the Philippines, or its analogue in an archipelago, as described in Proclamation No. 370 dated 20 March 1968 of the President of the Republic of the Philippines; or

(ii) in respect of the territory of the Republic of the Philippines, including its territorial seas and inland waters: and

Provided, further, that this declaration shall remain in force until notice is given to the Secretary-General of the United Nations of its termination.

Done at Manila this 23rd day of December 1971.

(Signed) Carlos P. ROMULO,
Secretary of Foreign Affairs.

POLAND

25 IX 90.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I hereby declare, on behalf of the Government of the Republic of Poland, that the Republic of Poland recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and subject to the sole condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes other than:

(a) disputes prior to the date of this declaration or disputes arisen out of facts or situations prior to the same date;

(b) disputes with regard to the territory or State boundaries;
(c) disputes with regard to pollution of the environment unless the jurisdiction of the International Court of Justice results from the treaty obligations of the Republic of Poland;
(d) disputes with regard to foreign liabilities or debts;
(e) disputes with regard to any State which has made a declaration accepting the compulsory jurisdiction of the International Court of Justice less than 12 months prior to the filing of the application bringing the dispute before the Court;
(f) disputes in respect whereof parties have agreed, or shall agree, to have recourse to some other method of peaceful settlement;
(g) disputes relating to matters which, by international law, fall exclusively within the domestic jurisdiction of the State.

This declaration shall be valid for a period of five years and be automatically prolonged thereafter for further periods of one year if not denounced by notification addressed to the Secretary-General of the United Nations taking effect after six months from the moment of such notification.

The Government of the Republic of Poland also reserves its right to add, by means of a notification addressed to the Secretary-General of the United Nations and taking effect after six months from the moment of such notification, new reservations or supplements, or to amend or withdraw any of the foregoing reservations.

Warsaw, 21 September 1990.

(Signed) Krzysztof SKUBISZEWSKI,
Minister of Foreign Affairs.

PORTUGAL

19 XII 55.

Under Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare on behalf of the Portuguese Government that Portugal recognizes the jurisdiction of this Court as compulsory *ipso facto* and without special agreement, as provided for in the said paragraph 2 of Article 36 and under the following conditions:

(1) the present declaration covers disputes arising out of events both prior and subsequent to the declaration of acceptance of the "optional clause" which Portugal made on 16 December 1920 as a party to the Statute of the Permanent Court of International Justice;
(2) the present declaration enters into force at the moment it is deposited with the Secretary-General of the United Nations; it shall be valid for a period of one year, and thereafter until notice of its denunciation is given to the said Secretary-General;

(3) the Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.

Washington, D.C., 19 December 1955.

(Signed) L. ESTEVES FERNANDES.

SENEGAL[1]

[Translation from the French] 2 XII 85.

I have the honour, on behalf of the Government of the Republic of Senegal, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, it accepts on condition of reciprocity as compulsory *ipso facto* and without special convention, in relation to any other State accepting the same obligation, the jurisdiction of the Court over all legal disputes arising after the present declaration, concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of international obligation.

This declaration is made on condition of reciprocity on the part of all States. However, Senegal may reject the Court's competence in respect of:

- disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes with regard to questions which, under international law, fall exclusively within the jurisdiction of Senegal.

Lastly, the Government of the Republic of Senegal reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend or withdraw the foregoing reservations.

Such notification would take effect on the date of its receipt by the Secretary-General.

Dakar, 22 October 1985.

(Signed) Ibrahima FALL,
Minister of Foreign Affairs
of the Republic of Senegal.

[1] This declaration replaced that of 3 May 1985 (*I.C.J. Yearbook 1984-1985*, p. 93).

SOMALIA

11 IV 63.

I have the honour to declare on behalf of the Government of the Somali Republic that the Somali Republic accepts as compulsory *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all legal disputes arising other than disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

The Somali Republic also reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Mogadishu, 25 March 1963.

(Signed) Abdullahi ISSA,
Minister for Foreign Affairs.

SPAIN

[Translation from the Spanish] 29 X 90.

1. On behalf of the Spanish Government, I have the honour to declare that the Kingdom of Spain accepts as compulsory *ipso facto* and without special agreement, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in relation to any other State accepting the same obligation, on condition of reciprocity, in legal disputes not included among the following situations and exceptions:

(a) disputes in regard to which the Kingdom of Spain and the other party or parties have agreed or shall agree to have recourse to some other method of peaceful settlement of the dispute;
(b) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question;
(c) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court;
(d) disputes arising prior to the date on which this Declaration was deposited with the Secretary-General of the United Nations or relat-

ing to events or situations which occurred prior to that date, even if such events or situations may continue to occur or to have effects thereafter.

2. The Kingdom of Spain may at any time, by means of a notification addressed to the Secretary-General of the United Nations, add to, amend or withdraw, in whole or in part, the foregoing reservations or any that may hereafter be added. These amendments shall become effective on the date of their receipt by the Secretary-General of the United Nations.

3. The present Declaration, which is deposited with the Secretary-General of the United Nations in conformity with Article 36, paragraph 4, of the Statute of the International Court of Justice, shall remain in force until such time as it has been withdrawn by the Spanish Government or superseded by another declaration by the latter.

The withdrawal of the Declaration shall become effective after a period of six months has elapsed from the date of receipt by the Secretary-General of the United Nations of the relevant notification by the Spanish Government. However, in respect of States which have established a period of less than six months between notification of the withdrawal of their Declaration and its becoming effective, the withdrawal of the Spanish Declaration shall become effective after such shorter period has elapsed.

Madrid, 15 October 1990.

(Signed) Francisco FERNÁNDEZ ORDÓÑEZ,
Minister for Foreign Affairs.

SUDAN

2 I 58.

I have the honour by direction of the Ministry of Foreign Affairs to declare, on behalf of the Government of the Republic of the Sudan, that in pursuance of paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Government of the Republic of the Sudan recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, until such time as notice may be given to terminate this declaration, the jurisdiction of the International Court of Justice in all legal disputes arising after the first day of January 1956 with regard to situations or facts subsequent to that date concerning:

(a) the interpretation of a treaty concluded or ratified by the Republic of the Sudan on or after the first day of January 1956;
(b) any question of international law;
(c) the existence of any fact, which, if established, would constitute a breach of an international obligation; or
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

but excluding the following:

(i) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(ii) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of the Sudan as determined by the Government of the Republic of the Sudan;
(iii) disputes arising out of events occurring during any period in which the Republic of the Sudan is engaged in hostilities as a belligerent.

New York, 30 December 1957.

(Signed) Yacoub OSMAN,
Permanent Representative of the Sudan
to the United Nations.

SURINAME

31 VIII 87.

I have the honour by direction of the Minister of Foreign Affairs of the Republic of Suriname, to declare on behalf of the Government of Suriname:

The Government of the Republic of Suriname recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from the seventh September 1987, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes, which have arisen prior to this Declaration or may arise after this Declaration, with the exception of:

(A) disputes which have arisen or may arise with respect to or in relation with the borders of the Republic of Suriname;
(B) disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, have agreed to settlement by means of arbitration, mediation or other methods of conciliation and accommodation.

This Declaration shall be binding for a period of five years and shall continue in force after that period until twelve months after the Government of the Republic of Suriname has given notice of its termination.

New York, 31 August 1987.

(Signed) W. H. Werner VREEDZAAM,
Chargé d'affaires of the Permanent Mission
of the Republic of Suriname
to the United Nations.

SWAZILAND

26 V 69.

I, Prince Makhosini Jameson Dlamini, Prime Minister of the Kingdom of Swaziland to whom His Majesty has delegated responsibility for the conduct of foreign affairs, have the honour to declare on behalf of the Government of the Kingdom of Swaziland, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Kingdom of Swaziland.

The Government of the Kingdom of Swaziland also reserves the right to add to, amend or withdraw this Declaration by means of a notification addressed to the Secretary-General of the United Nations, with effect as from the moment of such notification.

Mbabane, 9 May 1969.

(Signed) Makhosini Jameson DLAMINI,
Prime Minister and Minister
for Foreign Affairs.

SWEDEN[1]

[Translation from the French] 6 IV 57.

On behalf of the Royal Swedish Government, I declare that it accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the said Court, for a period of five years as from 6 April 1957. This obligation shall be renewed by tacit agreement for further periods of the same duration unless notice of abrogation is made at least six months before the expiration of any such period. The above-mentioned obligation is accepted only in respect of disputes which may arise with regard to situations or facts subsequent to 6 April 1947.

New York, 6 April 1957.

(Signed) Claes CARBONNIER,
Permanent Representative *a.i.*
of Sweden to the United Nations.

[1] This declaration replaced that of 5 April 1947, which had been made for a period of ten years (United Nations, *Treaty Series*, I, No. 16, Vol. 2).

SWITZERLAND

[Translation from the French] 28 VII 48.

The Swiss Federal Council, duly authorized for that purpose by a Federal decree which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and became operative on 17 June 1948,

Hereby declares that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Swiss Confederation becomes a party to that Statute[1] and shall have effect as long as it has not been abrogated subject to one year's notice.

Done at Berne, 6 July 1948.

On behalf of the Swiss Federal Council:

(Signed) CELIO,
The President of the Confederation.

(Signed) LEIMGRUBER,
The Chancellor of the Confederation.

TOGO

[Translation from the French] 25 X 1979.

The Togolese Republic,

Represented by His Excellency Mr. Akanyi-Awunyo Kodjovi, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Togo to the United Nations,

Acting pursuant to the provisions of Article 36, paragraphs 2 and 3, of the Statute of the International Court of Justice, annexed to the Charter of the United Nations,

Guided by its constant concern to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it

[1] Switzerland became a party to the Statute of the Court on 28 July 1948.

might be involved, and desiring to contribute to the strengthening of the international legal order based on the principles set forth in the Charter of the United Nations,

Declares that it recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is, subject to reciprocity, the jurisdiction of the International Court of Justice in all disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration has been made for an unlimited period subject to the power of denunciation and modification attached to any obligation assumed by a sovereign State in its international relations. It will enter into force on the day on which it is received by the United Nations Secretariat.

New York, 24 October 1979.

(Signed) Akanyi-Awunyo KODJOVI.

UGANDA

3 X 63.

I hereby declare on behalf of the Government of Uganda that Uganda recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court.

New York, 3 October 1963.

(Signed) Apollo K. KIRONDE,
Ambassador and Permanent Representative
of Uganda to the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND[1]

1 I 69.

I have the honour, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to declare on behalf of the Government of the United Kingdom of Great Britain and Northern Ire-

[1] This declaration replaced that of 27 November 1963 (United Nations, *Treaty Series*, I, No. 6995, Vol. 482), notice of the withdrawal and termination of which was given by letter of 1 January 1969, received by the Secretary-General of the United Nations on that date.

land that they accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after 24 October 1945, with regard to situations or facts subsequent to the same date, other than:

(i) any dispute which the United Kingdom

(a) has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement; or

(b) has already submitted to arbitration by agreement with any State which had not at the time of submission accepted the compulsory jurisdiction of the International Court of Justice;

(ii) disputes with the government of any other country which is a Member of the Commonwealth with regard to situations or facts existing before 1 January 1969;

(iii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the United Kingdom also reserve the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

New York, 1 January 1969.

(Signed) L. C. GLASS.

URUGUAY[1]

[Translation from the French] *Prior to* 28 I 21[2].

On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

(Signed) B. FERNANDEZ Y MEDINA.

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[1] An instrument of ratification was deposited on 27 September 1921. Cf. the footnote to Colombia, p. 86, above.

[2] The date on which this declaration (undated) was first published in a League of Nations document.

ZAIRE

[Translation from the French] 8 II 89.

... in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Executive Council of the Republic of Zaire recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

It is understood further that this declaration will remain in force until notice of its revocation is given.

(Signed) Bagbeni Adeito NZENGEYA,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Zaire
to the United Nations.

III. CHRONOLOGICAL LIST OF OTHER INSTRUMENTS GOVERNING THE JURISDICTION OF THE COURT

Below is a chronological list of treaties and other instruments *notified to the Registry* following registration, classification or recording at the Secretariat of the United Nations which (in addition to certain texts referred to in Section I of the present chapter, the declarations reproduced in Section II and the special agreements whereby particular cases were submitted to the Court) contain clauses relating to the jurisdiction of the Court in contentious proceedings. Such clauses generally provide that disputes concerning the application or interpretation of the instrument may be referred to the Court for decision. For each instrument, the table mentions the date and place of signature, the title of the instrument, the relevant clause and the contracting parties, and also, as far as available, the number under which it has been registered or filed and recorded by the Secretariat and the volume in the United Nations *Treaty Series* in which it has been or will be published.

Where instruments prior to 1946 are mentioned they are instruments relating to the jurisdiction of the *Permanent Court of International Justice* which have been filed and recorded by the Secretariat of the United Nations and appear in the *Treaty Series* of the United Nations.

The fact that a treaty is or is not included in this section is without prejudice to its possible application by the Court in a particular case.

Any instrument not mentioned in previous *I.C.J. Yearbooks* is indicated by an asterisk.

1933	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
12 May	Ottawa	Convention concerning the rights of nationals and commercial and shipping matters (Art. 20)	Canada/France	II: 545 Vol. 253
1939				
17 Dec.	Bogotá	Treaty of non-aggression, conciliation and judicial settlement (Art. XXIV)	Colombia/ Venezuela	II: 896 Vol. 1257
1940				
30 Mar.	Caracas	Treaty for the pacific settlement of disputes	Brazil/Venezuela	II: 195 Vol. 51
1944				
7 Dec.	Chicago	International air services transit agreement (Art. II, Sec. 2)	Multilateral	II: 252 Vol. 84
7 Dec.	Chicago	International air transport agreement (Art. IV, Sec. 3)	Multilateral	II: 502 Vol. 171
1946				
17 Apr.	Luxembourg	Convention concerning the Luxembourg railways (Art. 12)	Luxembourg/ Belgium/France	I: 402 Vol. 27
4 Nov.	Nanking	Treaty of friendship, commerce and navigation (Art. XXVIII)	China[1]/ United States	I: 359 Vol. 25
11 Dec.[2]	Lake Success	International convention relating to dangerous drugs, signed at Geneva, 19 Feb. 1925, as amended (Art. 32)	Multilateral	I: 186 Vol. 12
11 Dec.[2]	Lake Success	International convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended (Art. 25)	Multilateral	I: 186 Vol. 12
11 Dec.[2]	Lake Success	International convention for the suppression of illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended (Art. 17)	Multilateral	I: 186 Vol. 12
1947				
18 Apr.	Manila	Treaty of amity (Art. 2)	China[1]/Philippines	I: 175 Vol. 11

[1] All entries recorded throughout this Section in respect of China refer to actions taken by the authorities representing China in the United Nations at the time of those actions, and are to be understood in the light of General Assembly resolution 2758 (XXVI) of 25 October 1971.

[2] The date and place given here are those of the signature of the amending protocol.

1947 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
9 July	Rome	Treaty of friendship and general relations (Art. V)	Italy/Philippines	I:674 Vol. 44
17 Oct.	London	Treaty regarding recognition of Burmese independence (Art. 14)	United Kingdom/ Burma	I:904 Vol. 70
12 Nov.[1]	Lake Success	Convention (concluded at Geneva on 12 Sep. 1923) for the suppression of the circulation of and traffic in obscene publications, as amended (Art. 15)	Multilateral	I:710 Vol. 46
12 Nov.[1]	Lake Success	Convention (concluded at Geneva on 11 Oct. 1933) for the suppression of traffic in women of full age, as amended (Art. 4)	Multilateral	I:772 Vol. 53
1948				
24 Jan.	Paris	Agreement concerning monetary and financial relations (Art. 23)	France/Lebanon	I:2263 Vol. 173
2 Feb.	Rome	Treaty of friendship, commerce and navigation (Art. XXVI)	United States/Italy	I:1040 Vol. 79
30 Apr.	Bogotá	American treaty on pacific settlement	Multilateral	I:449 Vol. 30
21 May	New Delhi	Agreement relating to air services (Art. XI)	India/Sweden	I:543 Vol. 34
23 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/India	I:423 Vol. 28
28 June	Rome	Economic co-operation agreement (Art. X)	United States/Italy	I:314 Vol. 20
28 June	Paris	Economic co-operation agreement (Art. X)	United States/ France	I:302 Vol. 19
29 June	Copenhagen	Economic co-operation agreement (Art. X)	United States/ Denmark	I:338 Vol. 22
2 July	Vienna	Economic co-operation agreement (Art. IX)	United States/ Austria	I:323 Vol. 21
2 July	The Hague	Economic co-operation agreement (Art. X)	United States/ Netherlands	I:315 Vol. 20
2 July	Athens	Economic co-operation agreement (Art. X)	United States/ Greece	I:342 Vol. 23
2 July	Brussels	Economic co-operation agreement (Art. X)	United States/ Belgium	I:309 Vol. 19
3 July	Oslo	Economic co-operation agreement (Art. X)	United States/ Norway	I:317 Vol. 20
3 July	Reykjavik	Economic co-operation agreement (Art. X)	United States/ Iceland	I:316 Vol. 20

[1] See note 2, p. 120.

1948 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
3 July	Nanking	Economic co-operation agreement (Art. XI)	United States/China[1]	1:273 Vols. 17 and 45
3 July	Luxembourg	Economic co-operation agreement (Art. X)	United States/Luxembourg	1:350 Vol. 24
3 July	Stockholm	Economic co-operation agreement (Art. IX)	United States/Sweden	1:343 Vol. 23
4 July	Ankara	Economic co-operation agreement (Art. IX)	United States/Turkey	1:351 Vol. 24
6 July	London	Economic co-operation agreement (Art. X)	United States/United Kingdom	1:339 Vol. 22
28 Sep.	Lisbon	Economic co-operation agreement, as amended (Art. X)	United States/Portugal	1:442 Vol. 29
6 Oct.	Beirut	Treaty concerning consular arrangements, navigation, civil and commercial rights and establishment (Art. 33)	Greece/Lebanon	1:1179 Vol. 87
15/29 Nov.	Washington	*cf.* 1961, 23 Nov.		
9 Dec.	Paris (opened for signature)	Convention on the prevention and punishment of the crime of genocide (Art. IX)	Multilateral	1:1021 Vol. 78
1949				
3 Jan.	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Ceylon	1:428 Vol. 28
28 Apr.	Lake Success (opened for accession)	Revised general act for the pacific settlement of international disputes	Multilateral	1:912 Vol. 71
14 June	Washington	Treaty of friendship (Art. II)	Thailand/Philippines	1:1062 Vol. 81
4 July	Berne	Convention concerning the construction and use of the Bâle-Mulhouse airport at Blotzheim (Art. 20)	France/Switzerland	1:22048 Vol. 1323
15 July	Lake Success (opened for signature)	Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character (Art. IX)	Multilateral	1:2631 Vol. 197
30 Aug.	Ottawa	Agreement relating to air services (Art. 9)	Canada/Belgium	1:782 Vol. 53
10 Sep.	Guatemala City	Treaty of peace, friendship and co-operation (Art. 7)	Guatemala/Italy	1:1410 Vol. 102
19 Sep.	Geneva	Convention on road traffic (Art. 33)	Multilateral	1:1671 Vol. 125
20 Sep.	Beirut	Air transport agreement (Art. IX)	Netherlands/Lebanon	1:1474 Vol. 108
20 Oct.	New Delhi	Agreement relating to air services (Art. XI)	India/Philippines	1:934 Vol. 72
31 Oct.	Tehran	Agreement relating to air services (Art. 12)	Netherlands/Iran	1:3596 Vol. 254

[1] See note 1, p. 120.

1950	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
12 Jan.	Canberra	Agreement relating to air services (Art. XII)	Australia/Ceylon	I:789 Vol. 53
21 Jan.	Dublin	Treaty of friendship, commerce and navigation (Art. XXIII)	United States/ Ireland	I:2792 Vol. 206
27 Jan.	Mexico City	Commercial agreement (Art. VII)	Netherlands/ Mexico	I:1661 Vol. 123
18 Feb.	Tehran	Treaty of friendship (Art. IV)	Iran/Pakistan	I:2119 Vol. 161
21 Mar.	Lake Success (opened for signature)	Convention for suppression of traffic in persons and of exploitation of prostitution of others (Art. 22)	Multilateral	I:342 Vol. 96
24 Mar.	Rome	Treaty of friendship, conciliation and judicial settlement (Arts. 18-24)	Turkey/Italy	I:1338 Vol. 96
6 Aug.	Cairo	Agreement relating to air transport services (Art. XVI)	Egypt/France	I:1710 Vol. 127
16 Aug.	Wellington	Agreement relating to air services (Art. X)	New Zealand/ Canada	I:1002 Vol. 77
28 Aug.	Manila	Treaty of friendship, consular services and establishment (Art. II)	Greece/Philippines	I:3097 Vol. 225
16 Sep.	Brussels	Commercial agreement (Art. 7)	Belgo-Luxembourg Economic Union/ Mexico	I:2523 Vol. 188
15 Dec.	London	Trade agreement (Art. 8)	United Kingdom/ Norway	I:1459 Vol. 106
1951				
2 Feb.	Paris	Treaty of cession of the territory of the Free Town of Chandernagore (Art. XI)	India/France	I:2744 Vol. 203
22 Feb.	Oslo	Consular convention (Art. 34)	United Kingdom/ Norway	I:4713 Vol. 326
8 May	London	Agreement for air services (Art. 10)	Belgium/ United Kingdom	I:2079 Vol. 158
24 May	New Delhi	Agreement relating to air services (Art. XI)	India/Netherlands	I:1471 Vol. 108
18 June	Tehran	Agreement relating to air services (Art. 12)	Denmark/Iran	I:3602 Vol. 255
28 July	Geneva (opened for signature)	Convention relating to the status of refugees (Art. 38)	Multilateral	I:2545 Vol. 189
3 Aug.	Athens	Treaty of friendship, commerce and navigation (Art. XXVI)	Greece/ United States	I:3080 Vol. 224
23 Aug.	Washington	Treaty of friendship, commerce and navigation (Art. XXIV)	Israel/ United States	I:2979 Vol. 219
7 Sep.	Addis Ababa	Treaty of amity and economic relations (Art. XVII)	United States/ Ethiopia	I:2785 Vol. 206

1951 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
8 Sep.	San Francisco	Treaty of peace with Japan (Art. 22)	Multilateral	I:1832 Vol. 136
25 Sep.	Canberra	Agreement relating to air services (Art. VIII)	Netherlands/ Australia	I:1713 Vol. 128
1 Oct.	Copenhagen	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Denmark	I:6056 Vol. 421
31 Dec.	Paris	Consular convention (Art. 49)	France/ United Kingdom	I:4744 Vol. 330
1952				
14 Mar.	Stockholm	Consular convention (Art. 34)	Sweden/ United Kingdom	I:2731 Vol. 202
9 May	Tel Aviv	Agreement for economic assistance (Art. VIII)	United States/Israel	I:226 Vol. 177
14 June	Cairo	Agreement relating to air services (Art. XIV)	Australia/Egypt	I:2269 Vol. 173
11 July	Manila	Treaty of friendship (Art. II)	India/Philippines	I:2741 Vol. 203
17 July	Karachi	Agreement relating to air services (Art. XI)	Pakistan/ Netherlands	I:1980 Vol. 150
29 Aug.	Cairo	Agreement relating to air services (Art. XI)	Ethiopia/Pakistan	I:1979 Vol. 150
6 Sep.	Geneva	Universal copyright convention (Art. XV)	Multilateral	I:2937 Vol. 216
1953				
31 Mar.	New York (opened for signature)	Convention on the political rights of women (Art. IX)	Multilateral	I:2613 Vol. 193
31 Mar.	New York (opened for signature)	Convention on the international right of correction (Art. V)	Multilateral	I:6280 Vol. 435
2 Apr.	Tokyo	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/Japan	I:2788 Vol. 206
17 Apr.	Athens	Consular convention (Art. 35)	Greece/ United Kingdom	I:2582 Vol. 191
27 Apr.	Bangkok	Agreement relating to air services (Art. 10)	Thailand/ Philippines	I:2274 Vol. 174
23 June	New York (opened for signature)	Protocol for limiting and regulating cultivation of poppy plant, production of, international and wholesale trade in, and use of opium (Art. 15)	Multilateral	I:6555 Vol. 456
1 July	Paris (opened for signature)	Convention for the establishment of a European Organization for Nuclear Research (Art. XI)	Multilateral	I:2701 Vol. 200
14 Sep.	Colombo	Agreement for air services (Art. 11)	Netherlands/Ceylon	I:2608 Vol. 193

1953 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
24 Sep.	Helsinki	Agreement concerning a supplement to the convention of 30 January 1926 for the pacific settlement of disputes	Finland/Denmark	I:2532 Vol. 188
26 Sep.	Madrid	Economic aids agreement (Art. IX)	Spain/United States	I:2802 Vol. 207
19 Oct.	Venice	Constitution of the Intergovernmental Committee for European Migration (Art. 30)	Multilateral	I:2807 Vol. 207
7 Dec.[1]	New York	Slavery convention signed at Geneva on 25 Sep. 1926, as amended (Art. 8)	Multilateral	I:2861 Vol. 212
24 Dec.	Beirut	Agreement for air services (Art. 10)	Belgium/Lebanon	I:2972 Vol. 219
1954				
16 Feb.	Paris	Convention on conditions of residence and navigation (Art. 13)	Sweden/France	I:3147 Vol. 228
3 Mar.	Bangkok	Treaty of friendship (Art. VI)	Thailand/Indonesia	I:2893 Vol. 213
20 Mar.	Mexico City	Consular convention (Art. 36)	United Kingdom/ Mexico	I:4750 Vol. 331
17 Apr.	Beirut	Agreement relating to air services (Art. XIII)	Yugoslavia/ Lebanon	I:8713 Vol. 602
12 May	London (opened for signature)	International convention for the prevention of pollution of the sea by oil (Art. XIII)	Multilateral	I:4714 Vol. 327
1 June	Rome	Consular convention (Art. 37)	United Kingdom/ Italy	I:5798 Vol. 403
28 Sep.	New York	Convention relating to the status of stateless persons (Art. 34)	Multilateral	I:5158 Vol. 360
13 Oct.	Paris (opened for signature)	International convention on the standardization of methods of analysing and appreciating wines (Art. 6)	Multilateral	I:10416 Vol. 724
23 Oct.[2]	Paris	Treaty for collaboration in economic, social and cultural matters and for collective self-defence, signed at Brussels on 17 March 1948, as amended (Art. X)	Belgium, France, Luxembourg, Netherlands, United Kingdom, Fed. Rep. of Germany, Italy	I:304 Vols. 19 and 211
29 Oct.	Washington	Treaty of friendship, commerce and navigation (Art. XXVII)	United States/ Fed. Rep. of Germany	I:3943 Vol. 273

[1] The date and the place given here are those at which the amending protocol was opened for signature.

[2] The date and the place given here are those of the signature of the protocol modifying and completing the Treaty, by which Article VIII of the Treaty became Article X.

1954 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
5 Nov.	Rangoon	Treaty of peace (Art. IX)	Burma/Japan	I:3542 Vol. 251
24 Nov.	Rio de Janeiro	Agreement concerning conciliation and judicial settlement (Arts. 16-22)	Italy/Brazil	I:4146 Vol. 284
1 Dec.[1]	Paris	Agreement concerning the International Institute of Refrigeration, replacing the convention of 21 June 1920 (Art. XXXIII)	Multilateral	I:11837 Vol. 826
14 Dec.	Quito	Air transport agreement (Art. VIII)	Netherlands/ Ecuador	I:3233 Vol. 232
1955				
31 Jan.	Manila	Agreement for air services (Art. 11)	Philippines/ United Kingdom	I:2932 Vol. 216
5 Mar.	Paris	Consular convention (Art. 44)	Sweden/France	I:6150 Vol. 427
10 Aug.	Tripoli	Treaty of friendship and good neighbourliness (Art. 8)	France/Libya	
15 Aug.	Tehran	Treaty of amity, economic relations and consular rights (Art. XXI)	United States/Iran	I:4132 Vol. 284
17 Sep.	Lugano	Convention concerning the regulation of Lake Lugano (Art. XI)	Italy/Switzerland	I:4257 Vol. 291
20 Oct.	Berne	Additional protocol to the convention concerning the constitution of "Eurofima" (Art. 14)	Multilateral	I:5425 Vol. 378
21 Oct.	Beirut	Air transport agreement (Art. 11)	Denmark/Lebanon	I:3482 Vol. 248
13 Dec.	Paris	European convention on establishment (Art. 31)	Multilateral	I:7660 Vol. 529
1956				
27 Mar.	The Hague	Treaty of friendship, commerce and navigation (Art. XXV)	Netherlands/ United States	I:4154 Vol. 285
30 Apr.	Paris	Agreement on commercial rights of non-scheduled air services in Europe (Art. 4)	Multilateral	I:4494 Vol. 310
19 May	Geneva (opened for signature)	Convention on the contract for the international carriage of goods by road (Art. 47)	Multilateral	I:5742 Vol. 399
20 June	New York (opened for signature)	Convention on the recovery abroad of maintenance (Art. 16)	Multilateral	I:3850 Vol. 268
30 July	Bonn	Consular convention (Art. 41)	United Kingdom/ Fed. Rep. of Germany	I:4748 Vol. 330

[1] The date and place given here are those of the signature of the revised Convention.

1956 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
30 Aug.	Manila	Treaty of friendship (Art. 2)	Philippines/ Switzerland	1:4284 Vol. 293
7 Sep.	Geneva	Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery (Art. 10)	Multilateral	1:3822 Vol. 266
28 Nov.	Seoul	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Rep. of Korea	1:4367 Vol. 302
11 Dec.	Athens	Convention on judicial settlement	Greece/Sweden	1:4316 Vol. 299
1957				
20 Feb.	New York (opened for signature)	Convention on the nationality of married women (Art. 10)	Multilateral	1:4468 Vol. 309
28 Feb.	Tokyo	Treaty of commerce and navigation (Art. XVIII, para. 2)	Norway/Japan	1:4054 Vol. 280
24 Apr.	Cairo	Declaration on the Suez Canal and the arrangements for its operation (para. 9)	Egypt[1]	1:3821 Vol. 265
29 Apr.	Strasbourg (opened for signature)	European convention of the peaceful settlement of disputes	Multilateral	1:4646 Vol. 230
23 June	Kabul	Agreement relating to air services (Art. XI)	Pakistan/ Afghanistan	1:4717 Vol. 327
23 Nov.	The Hague	Agreement relating to refugee seamen (Art. 14)	Multilateral	1:7384 Vol. 506
1958				
20 Jan.	Djakarta	Treaty of peace (Art. 6)	Japan/Indonesia	1:4688 Vol. 324
3 Feb.	The Hague	Treaty instituting the Benelux Economic Union (Art. 50)	Belgium, Luxembourg, Netherlands	1:5471 Vol. 381
5 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Norway/Pakistan	1:4769 Vol. 334
6 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Sweden/Pakistan	1:5656 Vol. 393
10 Apr.	Copenhagen	Agreement relating to air services (Art. XI)	Denmark/Pakistan	1:4353 Vol. 302
14 Apr.	Tehran	Agreement concerning air transport (Art. 13)	Belgium/Iran	1:5473 Vol. 381
29 Apr.	Geneva (opened for signature)	Optional protocol of signature concerning the compulsory settlement of disputes[2]	Multilateral	1:6466 Vol. 450

[1] See Sec. II, p. 88, above.

[2] This Protocol relates to disputes concerning the Geneva Conventions on the Law of the Sea of 29 April 1958.

1958 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
7 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Portugal	I:4645 Vol. 320
4 July	Karachi	Agreement relating to air services (Art. XI)	Belgium/Pakistan	I:5569 Vol. 387
21 July	Vienna	Agreement relating to air services (Art. XI)	Austria/Afghanistan	I:9236 Vol. 645
28 Nov.	Monrovia	Agreement for the establishment and operation of air services (Art. 9)	Liberia/Netherlands	I:5651 Vol. 393
1959				
30 Jan.	Tegucigalpa	Agreement on commerce (Art. XII)	Belgium, Luxembourg, Netherlands/ Honduras	I:9234 Vol. 645
16 July	Rome	Agreement relating to air services (Art. XI)	India/Italy	I:6714 Vol. 464
12 Nov.	Washington	Treaty of friendship and commerce (Art. XXIII)	United States/ Pakistan	I:5816 Vol. 404
19 Nov.	Rome	Convention placing the International Poplar Commission within the framework of FAO (Art. XV)	Multilateral	I:5902 Vol. 410
25 Nov.	Paris	Convention of establishment (Art. XVI)	United States/ France	I:5764 Vol. 401
25 Nov.	Bonn	Treaty for the promotion and protection of investments (Art. 11)	Pakistan/ Fed. Rep. of Germany	I:6575 Vol. 457
1 Dec.	Washington	Antarctic treaty (Art. XI)	Multilateral	I:5778 Vol. 402
9 Dec.	Monrovia	Agreement relating to air services (Art. VIII)	Sweden/Liberia	I:6716 Vol. 464
1960				
13 Feb.[1]	Beirut	Agreement for air transport of 24 Jan. 1949, as amended (Art. 9)	Italy/Lebanon	I:3223 Vol. 497
9 Mar.	Conakry	Air transport agreement (Art. 9)	Netherlands/Guinea	I:5646 Vol. 392
15 Mar.	Geneva	Convention relating to the unification of certain rules concerning collisions in inland navigation (Art. 14)	Multilateral	I:8310 Vol. 572
24 Mar.	Berne	Agreement concerning air services (Art. 9)	Belgium/ Switzerland	I:5996 Vol. 416
8 Apr.	The Hague	Treaty concerning arrangements for co-operation in the Ems estuary (Art. 46)	Netherlands/ Fed. Rep. of Germany	I:7404 Vol. 509

[1] The date given here is the date of signature of the amending protocol.

1960 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
8 Apr.	The Hague	Agreement to accept the compulsory jurisdiction of the International Court of Justice in disputes concerning the interpretation or application of the revised convention on Rhine navigation, 1868	Netherlands/ Fed. Rep. of Germany	I:7404 Vol. 509
24 June	Vienna	Consular convention (Art. 45)	United Kingdom/ Austria	I:7327 Vol. 502
19 Oct.	Amman	Agreement relating to air services (Art. 9)	Belgium/Jordan	I:6959 Vol. 479
14 Dec.	Paris	Convention against discrimination in education (Art. 8)	Multilateral	I:6193 Vol. 429
14 Dec.[1]	New Delhi	Agreement of 11 July 1949 relating to air services, as amended (Art. X)	India/Australia	I:552 Vols. 35 and 425
18 Dec.	Tokyo	Treaty of friendship and commerce (Art. XIII)	Pakistan/Japan	I:6093 Vol. 423
1961				
21 Feb.	Brussels	Treaty of friendship, establishment and navigation (Art. 19)	Belgium/ United States	I:6967 Vol. 480
8 Mar.	Brussels	Consular convention (Art. 43)	Belgium/ United Kingdom	I:7554 Vol. 523
11 Mar.	Reykjavik	Exchange of notes constituting an agreement settling the fisheries dispute (para. 4)	Iceland/ United Kingdom	I:5710 Vol. 397
30 Mar.	New York	Single convention on narcotic drugs (Art. 48)	Multilateral	I:7515 Vol. 520
3 Apr.	Saigon	Treaty of amity and economic relations (Art. XIV)	United States/ Republic of Viet Nam	I:6106 Vol. 424
18 Apr.	Vienna	Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes	Multilateral	I:7312 Vol. 500
30 May	Madrid	Consular convention (Art. 53)	United Kingdom/ Spain	I:8198 Vol. 562
17 June	Conakry	Air transport agreement (Art. 9)	Sweden/Guinea	I:6729 Vol. 465
19 July	Reykjavik	Exchange of notes constituting an agreement concerning the fishery zone round Iceland (para. 5)	Iceland/ Fed. Rep. of Germany	I:5877 Vol. 409
27 July	Beirut	Agreement for the establishment and operation of air services (Art. XII)	Lebanon/Liberia	I:11304 Vol. 794

[1] The date given here is that of the exchange of notes which modified the Agreement and by which Article XI became Article X.

1961 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
24 Aug.	Amman	Agreement relating to air services (Art. 9)	Netherlands/Jordan	I:6733 Vol. 466
30 Aug.	New York	Convention on the reduction of statelessness (Art. 14)	Multilateral	I:14458 Vol. 989
31 Aug.	Monrovia	Agreement relating to air services (Art. XII)	Switzerland/Liberia	I:8160 Vol. 559
26 Oct.	Rome	International convention for the protection of performers, producers of phonograms and broadcasting organizations (Art. 30)	Multilateral	I:7247 Vol. 496
23 Nov.[1]	Rome	Constitution of the International Rice Commission, adopted at Washington 15/29 Nov. 1948, as amended (Art. XI)	Multilateral	I:1613 Vol. 418
23 Nov.[1]	Rome	Agreement for the establishment of Indo-Pacific Fisheries Council, adopted at Washington 15/29 Nov. 1948, as amended (Art. III)	Multilateral	I:1615 Vol. 418
1962				
23 Feb.	Luxembourg	Treaty of friendship, establishment and navigation (Art. XVII)	United States/ Luxembourg	I:6868 Vol. 474
19 Mar.	Evian	*cf.* 1962, 3 July		
21 June	Paris	Air transport agreement (Art. 9)	Norway/Guinea	I:6738 Vol. 466
27 June	Copenhagen	Consular convention (Art. 36)	United Kingdom/ Denmark	I:8197 Vol. 562
29 June	Bonn	Agreement relating to air services (Art. VIII)	Norway/Liberia	I:6739 Vol. 466
3 July[2]	Paris and Rocher-Noir	Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (declaration of principles relating to the settlement of disputes)	France/Algeria	I:7395 Vol. 507
14 Nov.	London	Treaty of commerce, establishment and navigation (Art. 31)	United Kingdom/ Japan	I:6934 Vol. 478
10 Dec.	New York (opened for signature)	Convention on consent to marriage, minimum age for marriage and registration of marriages (Art. 8)	Multilateral	I:7525 Vol. 521

[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

[2] The date and the places given here are those of the exchange of letters.

1963	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
8 Jan.	Seoul	Consular convention (Art. 16)	United States/ Republic of Korea	I:7211 Vol. 493
24 Apr.	Vienna	Optional protocol to the Vienna convention on consular relatons concerning the compulsory settlement of disputes	Multilateral	I:8640 Vol. 596
13 Aug.	Asunción	Agreement on trade and navigation (Art. XVI)	Belgium, Luxembourg, Netherlands/ Paraguay	I:8572 Vol. 592
14 Sep.	Tokyo	Convention on offences and certain other acts committed on board aircraft (Art. 24)	Multilateral	I:10106 Vol. 704
26 Oct.	Niamey	Act regarding navigation and economic co-operation between the States of the Niger Basin (Art. 7)	Multilateral	I:8506 Vol. 587
31 Oct.	Paris (opened for signature)	Protocol on privileges and immunities of the European Space Research Organization (Art. 29)	Multilateral	I:11473 Vol. 805
3 Dec.[1]	Rome	Agreement for the establishment of a General Fisheries Council for the Mediterranean, drawn up at Rome on 24 Sep. 1949, as amended (Art. XIII)	Multilateral	I:1691 Vol. 490
3 Dec.	Rome	Agreement for the establishment of a Commission for Controlling the Desert Locust in the Eastern Region of Its Distribution Area in South-West Asia (Art. XVII)	Multilateral	I:7663 Vol. 529
1964				
4 Feb.	Karachi	Agreement relating to scheduled air services (Art. XII, para. B, ii)	Pakistan/Lebanon	I:8863 Vol. 614
4 May	Tokyo	Consular convention (Art. 39)	United Kingdom/ Japan	I:8179 Vol. 561
19 Sep.	Beirut	Agreement relating to air services (Art. XI)	India/Lebanon	I:11820 Vol. 825
1965				
25 Jan.	Geneva	Convention on the registration of inland navigation vessels (Art. 20)	Multilateral	I:21114
18 Mar.	Washington (opened for signature)	Convention on the settlement of investment disputes between States and nationals of other States (Art. 64)	Multilateral	I:8359 Vol. 575

[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the Agreement.

1965 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
21 Apr.	Belgrade	Consular convention (Art. 45)	United Kingdom/ Yugoslavia	I:8620 Vol. 595
2 July	Rome	Agreement for establishment of a commission for controlling the desert locust in the Near East (Art. XVI)	Multilateral	I:8575 Vol. 592
7 July	London	Treaty for conciliation, judicial settlement and arbitration (Art. 14)	United Kingdom/ Switzerland	I:8765 Vol. 605
1966				
8 Feb.	Lomé	Treaty of amity and economic relations (Art. XIV)	United States/ Togo	I:9677 Vol. 680
15 Feb.	Geneva	Convention on the measurement of inland navigation vessels (Art. 14)	Multilateral	I:13899 Vol. 964
7 Mar.	New York (opened for signature)	International convention on the elimination of all forms of racial discrimination (Art. 22)	Multilateral	I:9464 Vol. 660
1967				
31 Jan.	New York	Protocol relating to the status of refugees (Art. IV)	Multilateral	I:8791 Vol. 606
14 Feb.	Mexico City	Treaty for the prohibition of nuclear weapons in Latin America (Art. 24)	Multilateral	I:9068 Vol. 634
14 Mar.	Manila	Trade agreement (Art. IX)	Belgium, Luxembourg, Netherlands/ Philippines	I:12382 Vol. 863
24 May	Kabul	Agreement relating to air services (Art. IX)	Denmark/ Afghanistan	I:9951 Vol. 695
1 June	London	Convention on conduct of fishing operations in the North Atlantic (Art. 13)	Multilateral	I:15849 Vol. 1051
10 July	Paris	International agreement on the procedure for the establishment of tariffs for scheduled air services (Art. 4)	Multilateral	I:9971 Vol. 696
14 July[1]	Stockholm	Convention for the protection of industrial property signed at Paris on 20 March 1883, as revised (Art. 28)	Multilateral	I:11851 Vol. 828
1968				
23 Feb.	Brussels	Protocol amending the international convention for the unification of certain rules of law relating to bills of lading, signed at Brussels on 25 August 1925 (Art. 8)	Multilateral	I:23643

[1] The date and the place given here are those of the signature of the revised Convention.

1968 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
8 Nov.	Vienna	Convention on road traffic (Art. 52)	Multilateral	I: 15705 Vol. 1042
8 Nov.	Vienna	Convention on road signs and signals (Art. 44)	Multilateral	I: 16743 Vol. 1091
1969				
13 Feb.	Geneva	Agreement establishing the European Molecular Biology Conference (Art. VIII)	Multilateral	I: 10462 Vol. 727
23 May	Vienna	Convention on the law of treaties (Art. 66)	Multilateral	I: 18232 Vol. 1155
25 July	Boston	International health regulations (Art. 106)	Multilateral	I: 10921 Vol. 764
2 Sep.	Washington	Consular convention (Art. 46)	Belgium/ United States	I: 13178 Vol. 924
8 Sep.	Mexico City	Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (Art. 7)	Multilateral	I: 16545
30 Dec.	Belgrade	Consular convention (Art. 46)	Belgium/ Yugoslavia	I: 13441 Vol. 943
1970				
23 Apr.	Brussels	International convention on travel contracts (Art. 32, para. 2)	Multilateral	I: 21051
19 June	Washington	Treaty on patent co-operation (Art. 59)	Multilateral	I: 18336 Vol. 1160
1 Dec.	Rome	Agreement for the establishment of a commission for controlling the desert locust in North-West Africa (Art. XVI)	Multilateral	I: 11354 Vol. 797
16 Dec.	The Hague	Convention on the suppression of the unlawful seizure of aircraft (Art. 12, para. 1)	Multilateral	I: 12325 Vol. 860
1971				
21 Feb.	Vienna	Convention on psychotropic substances (Art. 31)	Multilateral	I: 14956 Vol. 1019
14 July	Brussels	Treaty of commerce (Art. 11)	Belgium, Luxembourg, Netherlands/ USSR	I: 12656 Vol. 883
17 July	Accra	Agreement for the provision of a special loan to the Government of the Republic of Ghana to facilitate the payment of medium term commercial debts (Art. VII)	United Kingdom/ Ghana	I: 11467 Vol. 805

1971 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
24 July[1]	Paris	Convention for the protection of literary and artistic works signed at Berne on 9 September 1886, as revised (Art. 33)	Multilateral	I: 25986
24 July	Paris	Universal copyright convention, signed at Geneva on 6 September 1952, as revised (Art. XV)	Multilateral	I: 13444 Vol. 943
23 Sep.	Montreal	Convention for the suppression of unlawful acts against the safety of civil aviation (Art. 14)	Multilateral	I: 14118 Vol. 974
6 Oct.	Paris	Convention on the establishment of the International Institute for the Management of Technology (Art. 7)	Multilateral	I: 14566 Vol. 995
1972				
28 Apr.	Ankara	Consular convention (Art. 58)	Belgium/Turkey	I: 15142 Vol. 1029
16 May	Basle	European convention on State immunity (Art. 34)	Multilateral	I: 25699
1973				
10 May	Geneva	Agreement establishing the European Molecular Biology Laboratory (Art. XII)	Multilateral	I: 13668 Vol. 954
12 June	The Hague	Protocol relating to refugee seamen (Art. II)	Multilateral	I: 13928 Vol. 965
22 June	Rome	Agreement for the establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (Art. XX)	Multilateral	I: 14604 Vol. 997
5 Oct.	Munich	Convention on the grant of European patents (Art. 173)	Multilateral	I: 16208
19 Nov.	Montevideo	Treaty of the La Plata River and its maritime limits (Art. 87)	Uruguay/Argentina	I: 21424 Vol. 1295
30 Nov.	New York	International convention on the suppression and punishment of the crime of *apartheid* (Art. XII)	Multilateral	I: 14861 Vol. 1015
14 Dec.	New York	Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (Art. 13)	Multilateral	I: 15410 Vol. 1035

[1] The date and the place given here are those of the signature of the revised Convention.

1974	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
19 Feb.	Madrid	Agreement on the delimitation of the continental shelf (Art. 3, para. 2)	Italy/Spain	
22 Mar.	Helsinki	Convention on the protection of the marine environment of the Baltic Sea area (Art. 18, para. 2)	Multilateral	I:18338
16 May	Khartoum	Agreement relating to the joint exploitation of the natural resources of the sea-bed and subsoil of the Red Sea in the common zone (Art. XVI)	Sudan/ Saudi Arabia	I:13605 Vol. 952
1975				
26 Feb.	Salto	Treaty concerning the status of the river Uruguay (Art. 60)	Uruguay/ Argentina	I:21425 Vol. 1295
8 Aug.	New York	Single convention on narcotic drugs, 1961, as amended (Art. 48)	Multilateral	I:14152 Vol. 1976
1977				
24 May	Athens	Agreement on the delimitation of the respective continental shelves of the two States (Art. IV)	Greece/Italy	I:21048 Vol. 1275
1978				
5 July	Geneva	Protocol to the convention on the contract for the international carriage of goods by road (CMR) (Art. 8)	Multilateral	I:19487 Vol. 1208
1979				
30 Mar.	Geneva	International agreement on olive oil (Art. 14, para. 2)	Multilateral	I:19674 Vol. 1219
10 May	Manila	Treaty of amity, commerce and navigation (Art. XV, para. 2)	Japan/Philippines	I:20979 Vol. 1272
8 Apr.	Vienna	Constitution of the United Nations Industrial Development Organization (UNIDO) (Art. 22, para. 1 *(b)*)	Multilateral	I:23432 Vol. 1401
17 Dec.	New York	International convention against the taking of hostages (Art. 16, para. 1)	Multilateral	I:21931 Vol. 1316
18 Dec.	New York	Convention on the elimination of all forms of discrimination against women (Art. 29)	Multilateral	I:20378 Vol. 1249
1980				
20 May	Canberra	Convention on the conservation of Antarctic marine living resources	Multilateral	I:22301
30 Oct.	Lima	General peace treaty (Arts. 31-36 and 39)	El Salvador/ Honduras	I:21856 Vol. 1310

1981	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
23 Jan.	Cotonou	Agreement concerning technical co-operation (Art. XI)	Switzerland/Benin	I:19804 Vol. 1226
1984				
10 Dec.	New York	Convention against torture and other cruel, inhuman or degrading treatment or punishment (Art. 30, para. 1)	Multilateral	I:24841
1985				
22 Mar.	Vienna	Vienna convention for the protection of the ozone layer (Art. 11)	Multilateral	I:26164
10 Dec.	New York	International convention against *apartheid* in sports (Art. 19)	Multilateral	I:25822
1986				
21 Mar.	Vienna	Vienna convention on the law of treaties between States and international organizations or between international organizations (Art. 66, para. 2)	Multilateral	
1988				
10 Mar.	Rome	Convention for the suppression of unlawful acts against the safety of maritime navigation (Art. 18, para. 1)	Multilateral	I:29004
20 Dec.	Vienna	United Nations convention against illicit traffic in narcotic drugs and psychotropic substances (Art. 32)	Multilateral	I:27627
1989				
4 Dec.	New York	International convention against the recruitment, use, financing and training of mercenaries (Art. 17, para. 1)	Multilateral	
1991				
1 Mar.	Montreal	Convention on the marking of plastic explosives for the purpose of detection (Art. XI, para. 1)	Multilateral	
1992				
*17 March	Helsinki	Convention on the protection and use of transboundary watercourses and international lakes (Art. 22, para. 1)	Multilateral	
9 May	New York	United Nations framework convention on climate change	Multilateral	
5 June	Rio de Janeiro	Convention on biological diversity (Art. 27, para. 3)	Multilateral	

1993	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
13 Jan.	Paris	Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (Art. XIV, para. 2)	Multilateral	
1994				
*14 June	Oslo	Protocol to the 1979 Convention on long-range transboundary air pollution on further reduction of sulphur emissions (Art. 9)	Multilateral	

CHAPTER V

FUNCTIONING AND PRACTICE OF THE COURT

In matters concerning its administration and procedure, the International Court of Justice applies Articles 21, 22 and 39-68 of its Statute and Articles 12, 19-31 and 38-109 of its Rules.

I. Seat

The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the *Permanent Court of International Justice* as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978.

An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution (see Chap. VIII, p. 270, below).

II. Administration

1. The Presidency and the Committees of the Court

The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court (Rules, Art. 12)[1].

Decisions which have to be taken by the Court on administrative matters are prepared by a Budgetary and Administrative Committee composed of the President, the Vice-President and five judges who are elected annually (at present Judges Guillaume, Shahabuddeen, Ranjeva, Shi and Fleischhauer).

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[1] Occasionally the President is requested by third persons to undertake tasks outside the judicial work of the Court. These activities are described at the end of this chapter (pp. 156-157, below).

In 1967 the Court established a Committee on Relations. Its present members are Judges Aguilar-Mawdsley, Weeramantry and Herczegh. This committee is responsible for preparing plans and programmes with a view to the wider dissemination of information on the work of the Court and the maintenance of its relations with other United Nations organs, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law.

In 1970 the Court established a Library Committee (at present Judges Weeramantry, Ranjeva, Herczegh, Shi and Koroma) to review the programme of acquisitions for the library of the Court and supervise the continuous modernization of its services.

In 1979 the Court constituted the Rules Committee as a standing body. Its members are at present Judges Oda, Guillaume, Fleischhauer and Koroma.

Each year, in application of Article 11 of the Staff Regulations for the Registry, which came into force in 1979, the Court elects a Judge and Alternate Judge for Staff Appeals. Judges Weeramantry and Fleischhauer, respectively, hold these offices at present.

2. The Registry

The Registry is the administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Rules, Arts. 22-29). The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar, and Instructions for the Registry are drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The instructions drawn up in October 1946 were amended in March 1947 and September 1949 (*I.C.J. Yearbook 1946-1947*, pp. 72-87; *I.C.J. Yearbook 1949-1950*, p. 24).

(a) *The Registrar and the Deputy-Registrar*

The Court appoints its Registrar from among candidates proposed by Members of the Court; he is elected for a term of seven years and may be re-elected (Statute, Art. 21, para. 2; Rules, Art. 22). The Court also appoints a Deputy-Registrar, under the same conditions and in the same way as the Registrar (Rules, Art. 23).

The general functions of the Registrar are defined by the Rules of Court (Art. 26) and the Instructions for the Registry (Art. 1). Under the Instructions: "the Registrar is responsible for all departments of the Registry. The Staff is under his control and he alone is authorized to direct the work of the Registry, of which he is the Head." He is assisted by the Deputy-Registrar and, in the event of his absence, is replaced by the Deputy-Registrar or, failing him, an official of the Registry appointed by the President (Rules, Art. 27; Instructions for the Registry, Arts. 2 and 42).

The present Registrar is Mr. Eduardo Valencia-Ospina, of Colombian nationality, who was elected on 19 February 1987 and re-elected on 15 February 1994 for a term of 7 years, as from 19 February 1994. He was previously the Court's Deputy-Registrar (1984-1987) and before that had served as the senior legal officer of the Codification Division at the Office of Legal Affairs in the United Nations Secretariat.

On 15 February 1994 the Court elected Mr. Jean-Jacques Arnaldez to the post of Deputy-Registrar for a term of 7 years, as from 19 February 1994. Mr. Arnaldez, who is of French nationality, was previously Legal Counsel in a Paris international law firm (1977-1982) and Counsel in the International Court of Arbitration of the International Chamber of Commerce (ICC) in Paris (1982-1994).

Previous Registrars of the Court were E. Hambro (1946-1953), J. López-Oliván (1953-1960), J. Garnier-Coignet (1960-1966), S. Aquarone (1966-1980) and S. Torres Bernárdez (1980-1986). Previous Deputy-Registrars were J. Garnier-Coignet (1946-1960), S. Aquarone (1960-1966), W. Tait (1966-1976), A. Pillepich (1977-1984), E. Valencia-Ospina (1984-1987), and B. Noble (1987-1994).

(b) *Departments of the Registry*

The officials of the Registry are appointed by the Court on proposals submitted by the Registrar (Statute, Art. 21, para. 2; Rules, Art. 25). General Service category and temporary staff, however, are appointed by the Registrar (Rules, Art. 25; Staff Regulations for the Registry, Art. 5; Instructions for the Registry, Art. 4).

All officials of the Registry, whether permanent or temporary, must be proficient in English and French and those whose work involves linguistic responsibilities must have one of these languages as their first language.

The following table gives a list of officials employed by the Registry (both on a permanent basis and under fixed-term contracts) as at 31 July 1995, showing the posts they occupy with references, where appropriate, to the articles of the Instructions for the Registry in which their duties are defined.

	Date of assumption of duties	*Nationality*
Secretaries of the Court (Art. 43)		
Principal Legal Secretary		
Ph. Couvreur	13 April 1982	Belgian
First Secretaries		
Ms F. Meadows	1 January 1995	British
A. Brouillet	13 June 1988	French
E. Didier	1 May 1994	Canadian

Secretary		
A. Th. Witteveen In charge of information matters	15 July 1975	Dutch
Linguistic Staff		
Mrs. J. E. Bouri	1 July 1986	British
F. Mengin	5 May 1986	French
H. Sutcliffe	1 January 1995	British
Miss D. M. Eissen	1 January 1994	French
Legal Officers		
J.-P. Isselé	5 April 1988	French
F. Ouguergouz	1 February 1995	Algerian
Information Officer		
Mrs. N. Choucri El-Erian	1 March 1982	Egyptian
Administrative Assistants		
Mrs. R. Weerakoon	20 January 1986	Sri Lankan
Mrs. M. G. A. van Haasbergen	1 March 1985	French
Miss M. D. Donnelly	1 January 1985	British
Establishment (Arts. 54-66)		
M. Mendella Accountant/Establishment Officer, Head of Department	1 April 1986	Canadian
C. Uriot	1 March 1981	Dutch
B. J. van Veen	1 March 1982	Dutch
T. Komnenović	1 August 1973	Yugoslav
H. Laeijendecker	1 January 1994	Dutch
Telephonists-Receptionists		
Mrs. J. Koot-Jager	1 March 1978	Dutch
Mrs. E. Keijman	1 April 1978	Dutch
Messengers		
I. J. van der Meer Co-ordinator	1 June 1980	Dutch
F. Koch	1 September 1985	Dutch
D. Driessen	1 April 1982	Dutch
Security Guards		
R. Pijl	1 January 1990	Dutch
Mrs. M. Buan	1 October 1991	Dutch

Shorthand and Typewriting Department (Art. 53)

Mrs. N. Juszezak Head of Department	1 January 1979	French
Miss C. Rakoto	5 September 1983	Malagasy
Miss H. E. Jeffares	1 October 1993	Irish
Mrs. C. Wainwright	1 January 1990	Australian
Mrs. D. Roodbol-Sourisseau	1 January 1990	French
Miss V. Primas	1 January 1990	French
Mrs. M.-F. Teven	1 February 1995	French
Mrs. I. Muraille-Héroufosse	1 April 1995	Belgian
G. D'Olivo	4 February 1982	Italian and Dutch
E. van Heeswijk	16 August 1993	Dutch

Judges' Secretaries

Mrs. M. de Meyier Co-ordinator	1 January 1982	French and Dutch
Mrs. R. Snoeck	10 January 1977	French and Dutch
Miss W. Ch. Deelder	1 July 1982	Dutch
Mrs. J. E. van Hamel-Newall	1 November 1985	British
Mrs. L. Speeleveld	1 January 1986	Belgian
Miss H. H. Muyen	1 June 1987	Dutch
Mrs. M. Cleary-Cogan	1 January 1990	British
Mrs. A. Rowland-Moore	1 January 1990	British
Miss M. Sullivan	1 January 1990	British
Mrs. D. Bloemendaal	1 April 1990	British
Mrs. J. Devisme	1 January 1986	French
Miss Ch. L. Kamers	8 March 1993	Dutch

Archives (Arts. 44-52)

S. R. S. Bedi Head of Department	16 September 1985	Indian
D. van Rooy	16 April 1975	Dutch
S. Cantarella	9 April 1981	Italian
M. Sow	1 August 1985	Senegalese
J. Pronk	1 January 1981	Dutch

Printing Department (Arts. 67-69)

P. Vio Head of Department	1 June 1974	Italian
S. H. Herd	1 August 1987	British

Documents Department (Arts. 70-73)

A. C. G. M. Eyffinger Librarian, Head of Department	1 February 1988	Dutch
Mrs. R. S. B. van Megen	13 August 1973	Dutch
M. Schiethart	1 January 1981	Dutch
G. Vooijs	1 January 1981	Dutch

(c) *Staff Regulations for the Registry*

Article 28, paragraph 4, of the Rules of Court states:

> "The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court."

On 7 March 1979 the Court adopted new Staff Regulations for the Registry, which are reproduced in Chapter VI of the *I.C.J. Yearbook 1978-1979* (pp. 127-131). In November 1987 these Staff Regulations were amended (see *I.C.J. Yearbook 1988-1989*, pp. 163-164).

Before 1979 staff members of the Registry had been subject to Staff Regulations adopted by the President and approved by the Court in March 1947 in accordance with Article 18, paragraph 2, of the 1946 Rules of Court; these Staff Regulations had been amended in February and March 1950 and in June 1951 (see *I.C.J. Yearbook 1946-1947*, pp. 66-71; *I.C.J. Yearbook 1949-1950*, pp. 23-24; *I.C.J. Yearbook 1950-1951*, pp. 25-27).

(d) *Privileges and immunities*

In the Netherlands, in accordance with the terms of an exchange of letters, dated 26 June 1946, between the President of the Court and the Minister for Foreign Affairs of the Netherlands, the Registrar is, in a general way, accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands, and officials of the Registry are treated as officials of comparable rank attached to diplomatic missions at The Hague (*I.C.J. Acts and Documents No. 5*, pp. 201-207).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 207-211) the General Assembly of the United Nations recommended that, on journeys in connection with the exercise of his functions, the Registrar should enjoy all the privileges, immunities and facilities granted to diplomatic envoys and that the officials of the Registry should, in the same circumstances, enjoy such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

This resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept the United Nations laissez-

passer issued to the Registrar and officials of the Registry by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations. They are signed by the President of the Court and by the Registrar.

3. Relations with the Public

(a) *Correspondence*

Article 26, paragraph 1 *(a)*, of the Rules of Court states that the Registrar shall "be the regular channel for communications to and from the Court".

Consequently, correspondence should be addressed to *The Registrar, International Court of Justice, Peace Palace, 2517 KJ The Hague, Netherlands* (telegraphic address: INTERCOURT THE HAGUE; Telex: 32323; Telefax (3170) 364 99 28). It should be written in either English or French[1].

A special issue of postage stamps is used by the Netherlands postal administration for the franking of correspondence from the Court.

The Court's telephone number is (3170) 302 23 23.

(b) *Access to the Court's library and archives*

The library of the Court is separate from the library of the Peace Palace, which is situated in the same building but is administered by the Carnegie Foundation. The relations between the two libraries were the subject of an exchange of notes dated 29 and 30 July 1946 (*I.C.J. Yearbook 1946-1947*, pp. 98-99). The public has access to the Peace Palace Library, but the library of the Court is private.

The Court's library keeps the archives of the Nuremberg *International Military Tribunal*, as entrusted to the Court pursuant to a decision of that Tribunal dated 1 October 1946. These archives, which relate solely to the trial of the major war criminals tried in 1945-1946, may be consulted on written application to the Registrar.

Neither the archives of the Court itself nor those of the *Permanent Court of International Justice* are open to the public (Rules, Art. 26, para. 1 *(n)*).

(c) *Information*

Article 26, paragraph 1 *(k)* and *(m)*, of the Rules of Court provides that the Registrar shall "deal with enquiries concerning the Court and its work" and "ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools

[1] It is not possible for the Registry to give legal advice or to enter into correspondence with private persons concerning any matter at issue between them and the authorities of their own or another country.

of law, and public information media". For the purpose of carrying out this function, the Registrar is assisted by one of the Secretaries.

The Registrar arranges as he considers necessary for the publication of information concerning the composition, jurisdiction and work of the Court, and the cases before the Court[1].

The following documentation, issued separately in English and in French, is available free of charge on application to the Registry:

Press Communiqués;

Background Notes, of which four are available:

II and *II bis. Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976);*

IV. Note by the Registry indicating the Rules of Court amended on 10 May 1972;

V. Note by the Registry on the Revised Rules of Court (1978);

VI. Collected unofficial summaries of decisions concerning the law of the sea (1946-1986).

Also obtainable, from the Registry or United Nations Information Centres, are:

– a popular handbook on *The International Court of Justice*, published in Arabic, Chinese, English, French, Russian, Spanish and German editions, which is in particular distributed in the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law;

– a booklet on the Court published by the United Nations Department of Public Information in English, French, Spanish and Dutch editions;

– unofficial Arabic, Chinese, Russian and Spanish texts of the Rules of Court.

A film on the Court by the United Nations Department of Public Information is also available on application to that Department or to a United Nations Information Centre.

Groups often ask to visit the Registry and have the way the Court functions explained to them. So far as the work of the Court permits, the Registrar accedes to requests of this kind. During the period under review the Court received 127 groups including scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals, as well as others, amounting to some 3,500 persons in all.

Information on the assistance given members of the public and representatives of the press to help them follow the proceedings in cases before the Court will be found within the following section (pp. 150, 151, 155).

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[1] These publications are distinct from the publications of the Court issued by the Registry: see below, Chap. VII, pp. 236-238.

III. Practice in Regard to Procedure[1]

1. General

(a) *Official languages*

The official languages of the Court are French and English (Statute, Art. 39; Rules, Arts. 51, 70 and 71).

(b) *Official communications*

In all cases submitted to the Court, communications and documents for the Court are delivered to the Registrar and he is the regular channel for communications or notifications from the Court (Rules, Art. 26, para. 1, and Art. 30; Instructions for the Registry, Arts. 3, 11 and 13).

Communications in a case which are intended for a State party thereto are sent to its agent at the Hague address it designates for the purpose (Rules, Art. 40, para. 1).

For communications with other States, the Registrar requests the foreign ministers of States entitled to appear before the Court to indicate the channel through which their governments would wish to receive such communications. The channel of communication indicated is usually the Embassy in The Hague or the Ministry of Foreign Affairs of the State in question.

For public international organizations, the Registrar addresses the communications of the Court to the Director-General or Secretary-General of the organization as the case may be.

(c) *Minutes*

The Registrar is present at all sittings and meetings of the Court and is responsible for drawing up the minutes. After being signed by the President and the Registrar, these minutes are filed in the archives

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[1] For decisions taken by the Court involving the application of its Statute and Rules in procedural matters, see *I.C.J. Yearbook 1962-1963*, pp. 91-137; *I.C.J. Yearbook 1963-1964*, pp. 99-109; *I.C.J. Yearbook 1964-1965*, pp. 87-88; *I.C.J. Yearbook 1965-1966*, pp. 91-92; *I.C.J. Yearbook 1966-1967*, p. 87; *I.C.J. Yearbook 1967-1968*, pp. 87-92; *I.C.J. Yearbook 1968-1969*, pp. 108-112; *I.C.J. Yearbook 1969-1970*, pp. 113-115; *I.C.J. Yearbook 1970-1971*, pp. 109-113; *I.C.J. Yearbook 1971-1972*, pp. 123-125; *I.C.J. Yearbook 1972-1973*, pp. 136-143; *I.C.J. Yearbook 1973-1974*, pp. 125-129; *I.C.J. Yearbook 1974-1975*, pp. 120-123; *I.C.J. Yearbook 1975-1976*, pp. 118-123; *I.C.J. Yearbook 1976-1977*, pp. 113-114; *I.C.J. Yearbook 1977-1978*, pp. 111-119; *I.C.J. Yearbook 1978-1979*, pp. 124-131; *I.C.J. Yearbook 1979-1980*, pp. 125-129; *I.C.J. Yearbook 1980-1981*, pp. 133-137; *I.C.J. Yearbook 1981-1982*, pp. 141-147; *I.C.J. Yearbook 1982-1983*, pp. 125-126; *I.C.J. Yearbook 1983-1984*, pp. 140-141; *I.C.J. Yearbook 1984-1985*, pp. 173-184; *I.C.J. Yearbook 1985-1986*, pp. 164-172; *I.C.J. Yearbook 1986-1987*, pp. 158-163; *I.C.J. Yearbook 1987-1988*, pp. 146-151; *I.C.J. Yearbook 1988-1989*, pp. 159-164; *I.C.J. Yearbook 1989-1990*, pp. 157-162; *I.C.J. Yearbook 1990-1991*, pp. 174-182; *I.C.J. Yearbook 1991-1992*, pp. 198-204; *I.C.J. Yearbook 1992-1993*, pp. 242-248; *I.C.J. Yearbook 1993-1994*, pp. 209-216; and pp. 199-206 in Chapter VI, below.

(Statute, Art. 47; Rules, Art. 21, Art. 26, para. 1 *(f)-(i)*, and Art. 71; Instructions for the Registry, Art. 19).

(d) *General List*

The Registrar prepares and keeps up to date a General List of cases submitted to the Court (Rules, Art. 26, para. 1 *(b)*, and Art. 38, para. 5; Instructions for the Registry, Art. 6, para. 1, and Art. 46, para. 3).

Extracts from the General List are supplied by the Registry on request, in the form of *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976)*.

(For the General List of the *Permanent Court of International Justice*, see *P.C.I.J., Series E, No. 16*, pp. 92-147.)

2. Procedure in Contentious Cases

(a) *Institution of proceedings and appointment of agents*

As soon as proceedings are instituted (see Chap. III, pp. 68-69, above), the special agreement or the application, filed in one of the two official languages of the Court, is translated and printed in a bilingual edition by the Registry, then communicated to all concerned and to the States entitled to appear before the Court (Statute, Art. 40; Rules, Art. 38, paras. 4 and 5; Art. 39, para. 1, and Art. 42).

The Registrar arranges for the publication of a communiqué informing the general public and the press that proceedings have been instituted. Copies of the special agreement or application may be obtained on request.

The party which files a document instituting proceedings informs the Court at the same time of the name of the agent who will be its representative in the proceedings and take steps on its behalf; the other party then appoints its agent as soon as possible (Statute, Art. 42; Rules, Art. 40). A party may also appoint a co-agent, a deputy-agent or an additional agent. Agents, and counsel and advocates also, enjoy such privileges and immunities as may be required for the independent exercise of their duties (Statute, Art. 42, para. 3; *I.C.J. Acts and Documents No. 5*, pp. 205 and 209).

The President, who is required to ascertain the views of the parties on questions of procedure, summons the agents to meet him as soon as possible after their appointment and whenever necessary thereafter (Rules, Art. 31).

(b) *Written proceedings*

The written proceedings comprise the filing of pleadings within time-limits fixed in orders made by the Court or, if it is not sitting, the

President; the pleadings are in principle confined to a Memorial and a Counter-Memorial, though the Court may if it thinks fit authorize or direct that there be a Reply and a Rejoinder (Statute, Art. 43; Rules, Arts. 44-46 and 48; Instructions for the Registry, Art. 14).

The party's submissions are set out in each pleading (Rules, Art. 49).

The agent of the party filing the pleading supplies the Registry (Statute, Art. 43, paras. 3 and 4; Rules, Arts. 50-52) with the following:

- an original copy of the pleading, signed by him, to which is annexed a certified copy of any relevant document adduced in support of the contentions put forward;
- an English or French translation, certified by him to be accurate, of any part of a pleading or annexed document submitted in another language;
- a copy, certified by him, of the pleading and annexed documents, for communication to the other party;
- 125 further copies of the pleading and annexed documents;
- in the case of any document of which only parts are relevant and only necessary extracts have been annexed to the pleading, a copy of the whole document.

The format for the pleadings and annexes is 19 × 26 cm. If they are submitted in printed form, which is not compulsory, it is recommended that the Court's Typographical Rules (supplied by the Registry on request) be complied with. If the composition is entrusted to one of the printers who work for the Court, so that it is not necessary to re-compose the texts when they come to be used in the Court's series *Pleadings, Oral Arguments, Documents* (see *(e)* below), the Court will at that stage reimburse half the cost, at the normal rate, of the composition of the pleading itself and of such annexes as are to be reproduced in the *Pleadings* series (but excluding any text in a language other than English or French or entirely reproduced from another printed pleading).

The Registry usually translates, for the judges, pleadings and annexed documents, filed in one of the official languages of the Court, into the other official language (Rules, Art. 26, para. 1 *(g)*).

The Registrar arranges for the publication of communiqués giving information concerning the course of the written proceedings. Moreover, the Court may, after ascertaining the views of the parties, communicate the pleadings on request to any State entitled to appear before the Court. It may also, after ascertaining the parties' views, make the pleadings available to the general public and the press on or after the opening of the oral proceedings (Rules, Art. 53); this is generally done by depositing copies in a number of Information Centres and libraries, including the Peace Palace Library. The pagination of the pleadings and annexed documents which may thus be made accessible is provisional in character. They are not given their final pagination until they are published in the *I.C.J. Pleadings* series (see *(e)* below).

(c) *Oral proceedings*

Upon the closure of the written proceedings, a case is ready for hearing. The opening date of the oral proceedings is fixed by the Court or, if it is not sitting, the President (Rules, Art. 54). Public sittings are held at the seat of the Court, usually from 10 a.m. to 1 p.m. on weekdays. They are devoted to hearing the arguments of counsel and such evidence of witnesses or experts as the parties may call; the Court itself may also arrange for a witness to be heard, entrust any individual, body or organization with the task of giving an expert opinion or decide on an inspection *in loco*[1] (Statute, Arts. 43-46 and 48-51; Rules, Arts. 57-68; Instructions for the Registry, Art. 20).

The Court settles the order in which the parties are heard, the number of counsel who will address the Court, and the method of handling the evidence (Rules, Art. 58, para. 2). It is customary for the parties to present their arguments in the order in which their pleadings have been deposited or, in the case of proceedings instituted by special agreement, in the order laid down by the Court after consultations with the agents of the parties. Speeches and statements are normally made in one of the Court's two official languages and are (simultaneously) interpreted into the other; arrangements may be made for some other language to be used (Statute, Art. 39; Rules, Art. 70; Instructions for the Registry, Art. 17).

When the Court or a judge puts a question to the agents, counsel and advocates, the answer may be given either immediately or within a time-limit fixed by the President; if given in writing it is communicated to the other party (Rules, Art. 61, paras. 2-4, and Art. 72).

A provisional verbatim record of each public sitting is drawn up by the Registry in the official language used, and translated into the other; copies in the original official language are then communicated to the parties

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[1] In the *Corfu Channel (United Kingdom* v. *Albania)* case, the Court heard witnesses and experts presented by each of the Parties, appointed experts by Order and prescribed an enquiry on the spot. In the *Temple of Preah Vihear (Cambodia* v. *Thailand)* case, it heard witnesses and experts presented by each of the Parties. In the *South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa)* cases, it heard witnesses and experts presented by one Party, but did not accede to a request concerning an inspection *in loco*. In *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, it heard an expert presented by one Party. The Chamber constituted in the *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* case heard an expert presented by one Party and itself appointed, by Order, at the request of the Parties and in accordance with the Special Agreement concluded between them, a technical expert to assist it in its work. In the case concerning the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, the Court heard experts presented by each of the Parties. In the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)* it heard witnesses presented by one Party. The Chamber constituted in the case concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)* heard witnesses presented by one of the Parties and experts presented by each of them. In the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* the Court heard a witness presented by one of the Parties, but did not accede to a request concerning an inspection *in loco*.

and to the witnesses and experts in order that mistakes may be corrected under the supervision of the Court (Statute, Art. 47; Rules, Art. 71). A period of 24 hours is usually allowed for the submission of corrections.

In the course of the hearings each party reads out its final submissions and hands the Registrar copies of the text (Rules, Art. 60, para. 2). The filing of new documents after closure of the written proceedings is permissible only with the other party's consent or the authorization of the Court; such documents must be filed in the same number of copies as the pleadings (see *(b)* above); the Registrar transmits them to the other party with a request for observations. No reference may be made to the contents of any document which has not been duly produced, unless the document is part of a publication readily available (Statute, Art. 52; Rules, Art. 56).

The Registrar issues communiqués giving all necessary information as to the dates of the hearings (Instructions for the Registry, Art. 12). Admission cards are issued to members of the diplomatic corps and to representatives of the press and also to any person who makes application either in writing or in person at the Peace Palace on the occasion of a hearing. Photographs may be taken before the opening of hearings. Filming for cinema or television purposes is, however, subject to special authorization. There is a Press Room within the Peace Palace, and also a Post Office where a number of telephones are available for the use of journalists. As soon as the provisional, uncorrected verbatim records of each hearing have been duplicated they are made available to representatives of the press, though neither the text nor the pagination is final at that stage (see *(e)* below).

(d) *Deliberations*

After the close of the oral proceedings, the Court withdraws to deliberate in private and to prepare a judgment. The deliberations of the Court are conducted *in camera* and remain confidential. This applies to all aspects of the deliberations, including the schedule of meetings (Statute, Arts. 54-55; Rules, Arts. 19-21; Instructions for the Registry, Art. 16).

The manner in which the Court conducts its deliberations is governed by a resolution concerning the internal judicial practice of the Court, the most recent version of which was adopted on 12 April 1976 (see *I.C.J. Acts and Documents No. 5*, pp. 165-173).

(e) *Judgment*

The judgment is read out at a public sitting for which similar arrangements are made as for a hearing in open court, in particular with regard to the admission of the public and the assistance provided to representa-

tives of the press (see *(c)* above). However, where photography or filming is intended for use in newsreels or television news, it may be authorized not only at the beginning of a sitting but also when the operative terms of the judgment are read out.

The judgment is prepared in both official languages, of which one is indicated as authoritative (Statute, Art. 39; Rules, Art. 96). If it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the judgment indicates the names of the judges constituting the majority (Statute, Arts. 56-58; Rules, Arts. 94 and 95).

Three original copies of the judgment are signed by the President and the Registrar and are then sealed; one is placed in the archives of the Court and the others are handed to the parties (Rules, Art. 95, para. 3; Instructions for the Registry, Art. 21).

Immediately after the public reading, copies of a special duplicated *tirage* are placed at the disposal of the judges and the representatives of the parties. At the same time an unofficial communiqué summarizing the decision is issued on the authority of the Registrar.

As soon as possible, the printed text of the judgment becomes available as a separate fascicle in the *I.C.J. Reports* series, which is sent to States entitled to appear before the Court and is placed on sale. Subsequently, the documentation of the case is published in one or more printed volumes of the series entitled *I.C.J. Pleadings, Oral Arguments, Documents*. It is these printed texts (see Chap. VII, pp. 236-237, below) which should be used for all purposes of quotation or citation.

(f) *Expenses and costs*

The expenses of the Court, including amounts payable to witnesses or experts appearing at the instance of the Court (Rules, Art. 68; Instructions for the Registry, Art. 18), are borne out of the United Nations budget; if a party to a case does not contribute to the United Nations budget, the Court itself fixes the amount payable by that party as a contribution towards the expenses of the Court for the case (see Chap. VIII, p. 265, below).

Each party bears its own costs, unless the Court makes an order in favour of a party for the payment of the costs (Statute, Art. 64; Rules, Art. 95, para. 1, and Art. 97).

In addition, there exists a Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established on 1 November 1989[1]. The Fund is designed to encourage States to settle their disputes peaceably by submitting them to

[1] Cf. United Nations doc. A/44/PV.43 (1989).

the Court. To be eligible for funding, a State must be entitled to appear before the Court (see Chap. III, pp. 60-67, for an explanation of which States are so entitled) and demonstrate a need for financial assistance. In addition, the dispute must be submitted to the Court by Special Agreement.

3. Occasional Rules in Contentious Cases

(a) *Provisional measures*

The Court has the power to indicate provisional measures (Statute, Art. 41). A request for such measures is treated as a matter of urgency, and the Court's decision is given in an order (Rules, Arts. 73-78)[1].

(b) *Joinder of proceedings*

The Court may direct that the proceedings in two or more cases be joined (Rules, Art. 47). It does this by means of an order[2].

(c) *Preliminary objections*

Preliminary objections (see Chap. III, p. 70, above) must be filed within the time-limit fixed for the filing of the Counter-Memorial (Rules, Art. 79). They suspend the proceedings on the merits and may be answered by the observations and submissions of the opposing party, to be filed within a time-limit fixed by an order. Oral proceedings on the objections ensue, the party which raised them being called upon to speak first. The Court gives its decision on the objections in a judgment; if it dismisses them, the proceedings on the merits are resumed from the point of interruption; they are likewise resumed if it declares that the objections do not possess an exclusively preliminary character[3]. The Court may also

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[1] Such provisional measures have been requested in the following 17 cases: *Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Interhandel (Switzerland* v. *United States of America); Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland); Nuclear Tests (Australia* v. *France) (New Zealand* v. *France); Trial of Pakistani Prisoners of War (Pakistan* v. *India); Aegean Sea Continental Shelf (Greece* v. *Turkey); United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran); Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America); Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Border and Transborder Armed Actions (Nicaragua* v. *Honduras)* (in this case the request was withdrawn); *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal); Passage through the Great Belt (Finland* v. *Denmark); Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America); Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))* (in this case two requests were made by Bosnia and Herzegovina and one by Yugoslavia (Serbia and Montenegro)).

[2] Proceedings were joined in the following cases: *South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa); North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands).*

[3] The Court gave its decision on the preliminary objections raised in the following 15 cases: *Corfu Channel (United Kingdom* v. *Albania); Ambatielos (Greece* v. *United Kingdom); Anglo-*

give effect to an agreement between the parties that objections should be heard and determined within the framework of the merits[1].

(d) *Intervention, presentation of information*

A third State may request to be permitted to intervene if it considers that it has an interest of a legal nature which may be affected by the decision in the case; it is for the Court to decide upon such a request (Statute, Art. 62; Rules, Arts. 81 and 83-85)[2]. If the dispute relates to the construction of a convention to which States other than those concerned in the case are parties, these States are notified forthwith and have the right to intervene in the proceedings (Statute, Art. 63; Rules, Arts. 43, 82-84 and 86)[3].

Iranian Oil Co. (United Kingdom v. *Iran); Nottebohm (Liechtenstein* v. *Guatemala); Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America); Certain Norwegian Loans (France* v. *Norway); Right of Passage over Indian Territory (Portugal* v. *India); Interhandel (Switzerland* v. *United States of America); Aerial Incident of 27 July 1955 (Israel* v. *Bulgaria); Temple of Preah Vihear (Cambodia* v. *Thailand); South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa); Northern Cameroons (Cameroon* v. *United Kingdom); Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain); Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy); Certain Phosphate Lands in Nauru (Nauru* v. *Australia).* Preliminary objections on which the Court will yet have to give a decision have also been raised in two pending cases: *Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America)* and *Oil Platforms (Islamic Republic of Iran* v. *United States of America).* In other cases the Court was not called upon to give a decision on the preliminary objections, either because they were withdrawn *(Rights of Nationals of the United States of America in Morocco (France* v. *United States of America))* or as the result of a discontinuance *(Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria); Barcelona Traction, Light and Power Company, Limited* (first application) *(Belgium* v. *Spain); Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon)).* The Court also dealt with questions of jurisdiction or admissibility in the following nine cases: *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan); Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland); Nuclear Tests (Australia* v. *France) (New Zealand* v. *France); Aegean Sea Continental Shelf (Greece* v. *Turkey); United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran); Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America); Border and Transborder Armed Actions (Nicaragua* v. *Honduras).* The Court has still to decide questions of jurisdiction and admissibility in the pending cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* and *East Timor (Portugal* v. *Australia).*

[1] This was done in the cases concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)* and *East Timor (Portugal* v. *Australia).* Preliminary objections were joined to the merits under the pre-1972 Rules of Court after agreement between the Parties in the case concerning *Certain Norwegian Loans (France* v. *Norway)* and by decision of the Court in the following two cases: *Right of Passage over Indian Territory (Portugal* v. *India); Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain).*

[2] Permission to intervene was applied for in the *Nuclear Tests* cases *(Australia* v. *France) (New Zealand* v. *France),* in the cases concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and the *Continental Shelf (Libyan Arab Jamahiriya/Malta)* and in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras).*

[3] A third State intervened in the *Haya de la Torre (Colombia* v. *Peru)* case and a Declaration of Intervention was submitted in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America).*

Similarly, public international organizations may, at the request of the Court or a party or on their own initiative, furnish the Court with information relevant to cases before it; whenever the construction of their constituent instruments or of a convention adopted thereunder is in question, they are notified (Statute, Art. 34, paras. 2 and 3; Rules, Art. 69).

(e) *Default, settlement, discontinuance*

If one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim (Statute, Art. 53)[1].

The Court, or the President if the Court is not sitting, may, by way of an order, officially record the conclusion of a settlement or a discontinuance (Rules, Arts. 88 and 89)[2].

(f) *Execution, interpretation or revision of judgments*

The judgments of the Court are binding, final and without appeal (Charter, Art. 94, para. 1; Statute, Arts. 59-60; Rules, Art. 94, para. 2). The parties may, however, make a request for interpretation or, in certain circumstances, for revision of a judgment (see above, Chap. III, pp. 73-74). The decision of the Court on such requests is given in the form of a judgment (Statute, Arts. 60-61; Rules, Arts. 98-100)[3,4].

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[1] A number of judgments and orders were delivered in the absence of one of the parties: *Corfu Channel (United Kingdom* v. *Albania), Assessment of Amount of Compensation; Anglo-Iranian Oil Co. (United Kingdom* v. *Iran), Interim Protection; Nottebohm (Liechtenstein* v. *Guatemala), Preliminary Objection; Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland), Interim Protection, Jurisdiction of the Court* and *Merits; Nuclear Tests (Australia* v. *France) (New Zealand* v. *France), Interim Protection* and *Second Phase; Trial of Pakistani Prisoners of War (Pakistan* v. *India), Interim Protection; Aegean Sea Continental Shelf (Greece* v. *Turkey), Interim Protection* and *Jurisdiction of the Court; United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran), Provisional Measures* and *Merits; Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America), Merits; Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain), Jurisdiction and Admissibility.*

[2] The following 11 cases ended in discontinuance: *Protection of French Nationals and Protected Persons in Egypt (France* v. *Egypt); Electricité de Beyrouth Company (France* v. *Lebanon); Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria) (United Kingdom* v. *Bulgaria); Barcelona Traction, Light and Power Company, Limited (Belgium* v. *Spain)* (first application); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon); Trial of Pakistani Prisoners of War (Pakistan* v. *India); Border and Transborder Armed Actions (Nicaragua* v. *Costa Rica); Border and Transborder Armed Actions (Nicaragua* v. *Honduras); Passage through the Great Belt (Finland* v. *Denmark); Certain Phosphate Lands in Nauru (Nauru* v. *Australia).* Furthermore, the cases concerning *United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran)* and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)* ended in discontinuance as regarded the question of reparation which the Judgment had left to be settled.

[3] The Court gave a decision on a request for interpretation of its Judgment in the *Asylum (Colombia/Peru)* case. See also pp. 70, note 2, and 71, note 1, above.

[4] The Court gave a decision on an application for revision and interpretation submitted by Tunisia in connection with its Judgment in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya).*

[1] The Court was seised of an *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan)* in the case of that name.

Article 94, paragraph 2, of the Charter of the United Nations states that, if any party to a case fails to perform the obligations incumbent upon it under a judgment, the other party may have recourse to the Security Council.

(g) *Special reference to the Court*

When a matter which has been the subject of proceedings before some other international body is brought before the Court, the provisions of the Statute and of the Rules apply (Rules, Art. 87)[1].

4. Procedure in Advisory Cases

In addition to the Rules of Court which are expressly applicable to proceedings in regard to advisory opinions, the Court is guided by the provisions which apply in contentious proceedings (Statute, Art. 68; Rules, Art. 102). It may thus be led to apply the articles of the Statute concerning judges *ad hoc* (see Chap. I, pp. 13-16, above).

The practical information given concerning the course of the procedure in contentious cases (see under 2, above) applies *mutatis mutandis* to the procedure in regard to advisory opinions, in particular as regards arrangements for the public and the representatives of the press.

(a) *Request*

Notice of a request for an advisory opinion (see Chap. III, pp. 71-72, above) is addressed to the Court by the Secretary-General of the United Nations or the chief administrative officer of the organization authorized to make the request; all documents likely to throw light upon the question are to be transmitted at the same time as the request or as soon as possible thereafter (Statute, Art. 65, para. 2; Rules, Art. 104).

Notice of the request for an advisory opinion is given to all States entitled to appear before the Court (Statute, Art. 66, para. 1).

In addition, the Court gives the States and international organizations considered likely to be able to furnish information on the question an opportunity to submit their views in writing or orally, or both (Statute, Art. 66, paras. 2-4).

(b) *Written and oral proceedings*

A request for an opinion usually gives rise to written proceedings followed by oral proceedings (Statute, Art. 66; Rules, Arts. 105 and 106).

In the case of urgency, the Court takes all necessary steps to accelerate the procedure (Rules, Art. 103)[2].

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[2] The Court decided to accelerate the procedure in accordance with Article 103 of the Rules in the case concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

(c) *Deliberations*

The deliberations are conducted in the same manner as in contentious cases (Rules, Arts. 19-21 and 107; resolution concerning the Internal Judicial Practice of the Court, Art. 10).

(d) *Advisory opinion*

The advisory opinion is read in open Court; if it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the advisory opinion indicates the names of the judges constituting the majority (Statute, Art. 67; Rules, Arts. 107 and 108).

One of the original copies of the advisory opinion is transmitted to the body which made the request (Rules, Art. 109).

The opinions given by the Court are purely advisory in character. The body requesting the opinion may however be committed to accepting it as binding by the terms of the instrument under which it is authorized to request advisory opinions of the Court.

IV. Occasional Functions Entrusted to the President of the International Court of Justice

1. International Instruments Providing for Appointment of Arbitrators, etc.

There are many international instruments which provide that in certain eventualities the President of the Court may be requested by the contracting parties to appoint arbitrators, umpires, members of conciliation commissions, etc. Requests of this sort have always been acceded to.

States proposing to insert such a provision in a treaty generally consult the President as to his willingness to accept such a task, and submit the draft provision to him. This frequently provides that, if the President is of the nationality of one of the parties to the dispute, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

Such a provision is found, for instance, in bilateral agreements relating to air transport, social security, reparations or guarantees, loans, technical co-operation and the protection of investments; in multilateral treaties; in conventions or agreements concerning the constitution, status or privileges and immunities of international organizations; and in agreements or contracts concluded between States and international organs.

2. Other Requests for Appointment of Arbitrators

The President of the Court is sometimes requested to appoint arbitrators under the terms of contracts concluded between a State and

a corporation or between corporations. Such requests are generally acceded to.

In such cases, too, the usual practice is to consult the President in advance and to submit the draft contract to him. It is usually provided that if the President is of the same nationality as one of the parties to the contract, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

3. Other Appointments

The President has also at times been requested by States or international organizations to appoint persons to fill other offices.

Such appointments are, for instance, provided for in texts such as Article 12 of the Protocol of 23 June 1953 for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, or Article 4 of the Regulations for the execution of the Convention of 14 May 1954 for the protection of cultural property in the event of armed conflict or, again, Rule 109.1 *(a)* of the Staff Rules of the United Nations and Regulation 9.1.1 of the Staff Regulations of the United Nations Educational, Scientific and Cultural Organization.

CHAPTER VI

WORK OF THE COURT IN 1994-1995

During the period under review the Court was seised of the contentious case concerning *Fisheries Jurisdiction (Spain* v. *Canada)*. A request for an advisory opinion was submitted by the General Assembly in the case concerning the *Legality of the Threat or Use of Nuclear Weapons*.

The Court held 19 public sittings and a number of private meetings. It delivered a Judgment on jurisdiction and admissibility in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* (*I.C.J. Reports 1995*, p. 6). It also delivered a Judgment in the case concerning *East Timor (Portugal* v. *Australia)* (*I.C.J. Reports 1995*, p. 90). The Court made Orders concerning time-limits in the cases concerning the *Legality of the Threat or Use of Nuclear Weapons* (*I.C.J. Reports 1995*, p. 3) and *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* (*I.C.J. Reports 1995*, p. 83).

The President of the Court made Orders concerning time-limits in the cases concerning the *Gabčikovo-Nagymaros Project (Hungary/Slovakia)* (*I.C.J. Reports 1994*, p. 151), *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))* (*I.C.J. Reports 1995*, p. 80 and p. 279) and *Fisheries Jurisdiction (Spain* v. *Canada)* (*I.C.J. Reports 1995*, p. 87).

I. Cases before the Court

A. CONTENTIOUS CASES

1. Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America)*

On 17 May 1989, the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America, citing as bases for the Court's jurisdiction provisions of the 1944 Chicago Convention on International Civil Aviation and the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

In its Application, the Islamic Republic of Iran referred to:

> "The destruction of an Iranian aircraft, Iran Air Airbus A-300B, flight 655, and the killing of its 290 passengers and crew by two

surface-to-air missiles launched from the USS *Vincennes*, a guided-missile cruiser on duty with the United States Persian Gulf/Middle East Force in the Iranian airspace over the Islamic Republic's territorial waters in the Persian Gulf on 3 July 1988."

It contended that,

"by its destruction of Iran Air flight 655 and taking 290 lives, its refusal to compensate the Islamic Republic for damages arising from the loss of the aircraft and individuals on board and its continuous interference with the Persian Gulf aviation",

the Government of the United States had violated certain provisions of the Chicago Convention on International Civil Aviation (7 December 1944), as amended, and of the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (23 September 1971), and that the Council of the International Civil Aviation Organization (ICAO) had erred in its decision of 17 March 1989 concerning the incident.

In its Application the Government of the Islamic Republic of Iran requested the Court to adjudge and declare:

"*(a)* that the ICAO Council decision is erroneous in that the Government of the United States has violated the Chicago Convention, including the Preamble, Articles 1, 2, 3 *bis* and 44 *(a)* and *(h)* and Annex 15 of the Chicago Convention as well as Recommendation 2.6/1 of the Third Middle East Regional Air Navigation Meeting of ICAO;

(b) that the Government of the United States has violated Articles 1, 3 and 10 (1) of the Montreal Convention; and

(c) that the Government of the United States is responsible to pay compensation to the Islamic Republic, in the amount to be determined by the Court, as measured by the injuries suffered by the Islamic Republic and the bereaved families as a result of these violations, including additional financial losses which Iran Air and the bereaved families have suffered for the disruption of their activities."

By an Order of 13 December 1989, the Court, having taken into account the views expressed by each of the Parties, fixed 12 June 1990 as the time-limit for the filing of the Memorial of the Islamic Republic of Iran and 10 December 1990 for the filing of the Counter-Memorial of the United States of America (*I.C.J. Reports 1989*, p. 132). Judge Oda appended a declaration to the Order of the Court (*ibid.*, p. 135); Judges Schwebel and Shahabuddeen appended separate opinions (*ibid.*, pp. 136-144 and 145-160).

By an Order of 12 June 1990 (*I.C.J. Reports 1990*, p. 86), made in response to a request by the Islamic Republic of Iran and after the views of the United States of America had been ascertained, the President of the Court extended to 24 July 1990 the time-limit for the filing of the

Memorial of the Islamic Republic of Iran and to 4 March 1991 the time-limit for the Counter-Memorial of the United States of America. The Memorial was filed within the prescribed time-limit.

On 4 March 1991, within the time-limit fixed for the filing of its Counter-Memorial, the United States of America filed certain preliminary objections to the jurisdiction of the Court. By virtue of the provisions of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended and a time-limit had to be fixed for the presentation by the other Party of a written statement of its observations and submissions on the preliminary objections. By an Order of 9 April 1991 (*I.C.J. Reports 1991*, p. 6), the Court, having ascertained the views of the Parties, fixed 9 December 1991 as the time-limit within which the Islamic Republic of Iran may present such observations and submissions.

The Islamic Republic of Iran chose Mr. Mohsen Aghahosseini to sit as judge *ad hoc*.

By Orders of 18 December 1991 (*I.C.J. Reports 1991*, p. 187) and 5 June 1992 (*I.C.J. Reports 1992*, p. 225), made in response to successive requests by Iran and after the views of the United States had been ascertained, the President of the Court extended the above-mentioned time-limit for the written observations and submissions of Iran on the preliminary objections to 9 June and 9 September 1992 respectively. Those observations and submissions were filed within the prescribed time-limit and were communicated to the Secretary-General of the International Civil Aviation Organization (ICAO), together with the written pleadings previously filed, pursuant to Article 34, paragraph 3, of the Statute of the Court and Article 69, paragraph 3, of the Rules of Court. The President of the Court, acting under the same provisions, fixed 9 December 1992 as the time-limit for the eventual submission of written observations by the Council of ICAO. The ICAO's observations were duly filed within that time-limit.

The public sittings to hear the oral arguments of the Parties, scheduled to open on 12 September 1994, were postponed *sine die* at the request of the Parties.

2. *East Timor (Portugal* v. *Australia)*

On 22 February 1991 the Government of the Portuguese Republic filed in the Registry of the Court an Application instituting proceedings against the Commonwealth of Australia in a dispute concerning "certain activities of Australia with respect to East Timor".

In order to establish the basis of the Court's jurisdiction, Portugal referred, in its Application, to the declarations made by the two States under Article 36, paragraph 2, of the Statute of the Court.

In the Application the claim was made that Australia, by negotiating, with Indonesia, an "agreement relating to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap' ", signed on

11 December 1989, by the "ratification, and the initiation of the performance" of that agreement, by the "related internal legislation", by the "negotiation of the delimitation of that shelf", and by the "exclusion of any negotiation on those matters with Portugal", had caused "particularly serious legal and moral damage to the people of East Timor and to Portugal, which will become material damage also if the exploitation of hydrocarbon resources begins".

Portugal requested the Court:

> "(1) To adjudge and declare that, first, the rights of the people of East Timor to self-determination, to territorial integrity and unity (as defined in paragraphs 5 and 6 of the present Application) and to permanent sovereignty over its wealth and natural resources and, secondly, the duties, powers and rights of Portugal as the administering Power of the Territory of East Timor are opposable to Australia, which is under an obligation not to disregard them, but to respect them.
>
> (2) To adjudge and declare that Australia, inasmuch as in the first place it has negotiated, concluded and initiated performance of the agreement referred to in paragraph 18 of the statement of facts, has taken internal legislative measures for the application thereof, and is continuing to negotiate, with the State party to that agreement, the delimitation of the continental shelf in the area of the 'Timor Gap'; and inasmuch as it has furthermore excluded any negotiation with the administering Power with respect to the exploration and exploitation of the continental shelf in that same area; and, finally, inasmuch as it contemplates exploring and exploiting the subsoil of the sea in the 'Timor Gap' on the basis of a plurilateral title to which Portugal is not a party (each of these facts sufficing on its own):
>
> *(a)* has infringed and is infringing the right of the people of East Timor to self-determination, to territorial integrity and unity and its permanent sovereignty over its natural wealth and resources, and is in breach of the obligation not to disregard but to respect that right, that integrity and that sovereignty;
>
> *(b)* has infringed and is infringing the powers of Portugal as the administering Power of the Territory of East Timor, is impeding the fulfilment of its duties to the people of East Timor and to the international community, is infringing the right of Portugal to fulfil its responsibilities and is in breach of the obligation not to disregard but to respect those powers and duties and that right;
>
> *(c)* is contravening Security Council resolutions 384 and 389 and, as a consequence, is in breach of the obligation to accept and carry out Security Council resolutions laid down by Article 25 of the Charter of the United Nations and, more generally, is in breach of the obligation incumbent on member States to co-operate in good faith with the United Nations;

(3) To adjudge and declare that, inasmuch as it has excluded and is excluding any negotiation with Portugal as the administering Power of the Territory of East Timor, with respect to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap', Australia has failed and is failing in its duty to negotiate in order to harmonize the respective rights in the event of a conflict of rights or of claims over maritime areas.

(4) To adjudge and declare that, by the breaches indicated in paragraphs 2 and 3 of the present submissions, Australia has incurred international responsibility and has caused damage, for which it owes reparation to the people of East Timor and to Portugal, in such form and manner as may be indicated by the Court.

(5) To adjudge and declare that Australia is bound, in relation to the people of East Timor, to Portugal and to the international community, to cease from all breaches of the rights and international norms referred to in paragraphs 1, 2 and 3 of the present submissions and in particular, until such time as the people of East Timor shall have exercised its right to self-determination, under the conditions laid down by the United Nations:

(a) to refrain from any negotiation, signature or ratification of any agreement with a State other than the administering Power concerning the delimitation, and the exploration and exploitation, of the continental shelf, or the exercise of jurisdiction over that shelf, in the area of the 'Timor Gap';

(b) to refrain from any act relating to the exploration and exploitation of the continental shelf in the area of the 'Timor Gap' or to the exercise of jurisdiction over that shelf, on the basis of any plurilateral title to which Portugal, as the administering Power of the Territory of East Timor, is not a party."

By an Order of 3 May 1991 (*I.C.J. Reports 1991*, p. 9), the President of the Court, having ascertained the views of the Parties at a meeting with their Agents held on 2 May 1991, fixed the following time-limits: 18 November 1991 for the filing of the Portuguese Memorial and 1 June 1992 for the Australian Counter-Memorial. Both the Memorial and Counter-Memorial were filed within the prescribed time-limits.

Portugal had chosen Mr. Antonio de Arruda Ferrer-Correia and Australia Sir Ninian Stephen to sit as judges *ad hoc*. Following Mr. Ferrer-Correia's resignation, Portugal chose Mr. Krzysztof J. Skubiszewski to sit as judge *ad hoc*.

By an Order of 19 June 1992 (*I.C.J. Reports 1992*, p. 228), the Court, having ascertained the views of the Parties, fixed 1 December 1992 as the time-limit for the filing of a Reply by Portugal and 1 June 1993 for the filing of a Rejoinder by Australia. The Reply was filed within the prescribed time-limit.

Australia filed its Rejoinder following an Order of 19 May 1993

(*I.C.J. Reports 1993*, p. 32) by which the President of the Court, upon the request of Australia and after Portugal had indicated that it had no objection, had extended the time-limit for the filing of that Rejoinder to 1 July 1993.

Oral proceedings were held from 30 January to 16 February 1995. During 15 public sittings, the Court heard statements made on behalf of Portugal and of Australia.

At a public sitting held on 30 June 1995, the Court delivered its Judgment (*I.C.J. Reports 1995*, p. 90), a summary of which is given below followed by the text of the operative paragraph.

Procedural history (paras. 1-10)

In its Judgment the Court recalled that on 22 February 1991 Portugal had instituted proceedings against Australia concerning "certain activities of Australia with respect to East Timor". According to the Application Australia had, by its conduct,

> "failed to observe . . . the obligation to respect the duties and powers of [Portugal as] the administering Power [of East Timor] . . . and . . . the right of the people of East Timor to self-determination and the related rights".

In consequence, according to the Application, Australia had "incurred international responsibility vis-à-vis both the people of East Timor and Portugal". As the basis for the jurisdiction of the Court, the Application referred to the declarations by which the two States had accepted the compulsory jurisdiction of the Court under Article 36, paragraph 2, of its Statute. In its Counter-Memorial, Australia had raised questions concerning the jurisdiction of the Court and the admissibility of the Application. In the course of a meeting held by the President of the Court the Parties had agreed that those questions were inextricably linked to the merits and that they should therefore be heard and determined within the framework of the merits. The written proceedings having been completed in July 1993, hearings had been held between 30 January and 16 February 1995. The Judgment then set out the final submissions which had been presented by both Parties in the course of the oral proceedings.

Historical background (paras. 11-18)

The Court then gave a short description of the history of the involvement of Portugal and Indonesia in the Territory of East Timor and of a number of Security Council and General Assembly resolutions concerning the question of East Timor. It further described the negotiations between Australia and Indonesia leading to the Treaty of 11 December 1989, which created a "Zone of Cooperation . . . in an area between the Indonesian Province of East Timor and Northern Australia".

Summary of the contentions of the Parties (paras. 19-20)

The Court then summarized the contentions of both Parties.

Australia's objection that there existed in reality no dispute between the Parties (paras. 21-22)

The Court went on to consider Australia's objection that there was in reality no dispute between itself and Portugal. Australia contended that the case as presented by Portugal was artificially limited to the question of the lawfulness of Australia's conduct, and that the true respondent was Indonesia, not Australia. Australia maintained that it was being sued in place of Indonesia. In that connection, it pointed out that Portugal and Australia had accepted the compulsory jurisdiction of the Court under Article 36, paragraph 2, of its Statute, but that Indonesia had not.

The Court found in that respect that for the purpose of verifying the existence of a legal dispute in the present case, it was not relevant whether the "real dispute" was between Portugal and Indonesia rather than Portugal and Australia. Portugal had, rightly or wrongly, formulated complaints of fact and law against Australia which the latter had denied. By virtue of that denial, there was a legal dispute.

Australia's objection that the Court was required to determine the rights and obligations of Indonesia (paras. 23-35)

The Court then considered Australia's principal objection, to the effect that Portugal's Application would require the Court to determine the rights and obligations of Indonesia. Australia contended that the jurisdiction conferred upon the Court by the Parties' declarations under Article 36, paragraph 2, of the Statute would not enable the Court to act if, in order to do so, the Court were required to rule on the lawfulness of Indonesia's entry into and continuing presence in East Timor, on the validity of the 1989 Treaty between Australia and Indonesia, or on the rights and obligations of Indonesia under that Treaty, even if the Court did not have to determine its validity. In support of its argument, it referred to the Court's Judgment in the case of the *Monetary Gold Removed from Rome in 1943* (*I.C.J. Reports 1954*, p. 19). Portugal agreed that if its Application required the Court to decide any of these questions, the Court could not entertain it. The Parties disagreed, however, as to whether the Court was required to decide any of these questions in order to resolve the dispute referred to it.

Portugal contended first that its Application was concerned exclusively with the objective conduct of Australia, which consisted in having negotiated, concluded and initiated performance of the 1989 Treaty with Indonesia, and that this question was perfectly separable from any question relating to the lawfulness of the conduct of Indonesia.

Having carefully considered the argument advanced by Portugal which sought to separate Australia's behaviour from that of Indonesia, the

Court concluded that Australia's behaviour could not be assessed without first entering into the question of why it was that Indonesia could not lawfully have concluded the 1989 Treaty, while Portugal allegedly could have done so; the very subject-matter of the Court's decision would necessarily be a determination whether, having regard to the circumstances in which Indonesia entered and remained in East Timor, it could or could not have acquired the power to enter into treaties on behalf of East Timor relating to the resources of its continental shelf. The Court was not able to make such a determination in the absence of the consent of Indonesia.

The Court rejected Portugal's additional argument that the rights which Australia had allegedly breached were rights *erga omnes* and that accordingly Portugal could require it, individually, to respect them regardless of whether or not another State had conducted itself in a similarly unlawful manner.

In the Court's view, Portugal's assertion that the right of peoples to self-determination, as it evolved from the Charter and from United Nations practice, had an *erga omnes* character, was irreproachable. The principle of self-determination of peoples had been recognized by the United Nations Charter and in the jurisprudence of the Court; it was one of the essential principles of contemporary international law. However, the Court considered that the *erga omnes* character of a norm and the rule of consent to jurisdiction were two different things. Whatever the nature of the obligations invoked, the Court could not rule on the lawfulness of the conduct of a State when its judgment would imply an evaluation of the lawfulness of the conduct of another State which was not a party to the case.

The Court went on to consider another argument of Portugal which, the Court observed, rested on the premise that the United Nations resolutions, and in particular those of the Security Council, could be read as imposing an obligation on States not to recognize any authority on the part of Indonesia over East Timor and, where the latter was concerned, to deal only with Portugal. Portugal maintained that those resolutions would constitute "givens" on the content of which the Court would not have to decide *de novo*.

The Court took note of the fact that, for the two Parties, the Territory of East Timor remained a non-self-governing territory and its people had the right to self-determination, and that the express reference to Portugal as the "administering Power" in a number of the above-mentioned resolutions was not at issue between them. The Court found, however, that it could not be inferred from the sole fact that a number of resolutions of the General Assembly and the Security Council referred to Portugal as the administering Power of East Timor that they intended to establish an obligation on third States to treat exclusively with Portugal as regards the continental shelf of East Timor. Without prejudice to the question whether the resolutions under discussion could be binding in nature, the Court considered as a result that they could not be regarded as "givens"

which constituted a sufficient basis for determining the dispute between the Parties.

It followed from this that the Court would necessarily have had to rule upon the lawfulness of Indonesia's conduct as a prerequisite for deciding on Portugal's contention that Australia had violated its obligation to respect Portugal's status as administering Power, East Timor's status as a non-self-governing territory and the right of the people of the Territory to self-determination and to permanent sovereignty over its wealth and natural resources. Indonesia's rights and obligations would thus have constituted the very subject-matter of such a judgment made in the absence of that State's consent. Such a judgment would have run directly counter to the

> "'well-established principle of international law embodied in the Court's Statute, namely, that the Court can only exercise jurisdiction over a State with its consent' (*Monetary Gold Removed from Rome in 1943, Judgment, I.C.J. Reports 1954*, p. 32)".

Conclusions (paras. 36-37)

The Court accordingly found that it was not required to consider Australia's other objections and that it could not rule on Portugal's claims on the merits, whatever the importance of the questions raised by those claims and of the rules of international law which they brought into play.

The Court recalled in any event that it had taken note in the Judgment that, for the two Parties, the Territory of East Timor remained a non-self-governing territory and its people had the right to self-determination.

Operative paragraph (para. 38)

> "THE COURT,
>
> By fourteen votes to two,
>
> *Finds* that it cannot in the present case exercise the jurisdiction conferred upon it by the declarations made by the Parties under Article 36, paragraph 2, of its Statute to adjudicate upon the dispute referred to it by the Application of the Portuguese Republic.
>
> IN FAVOUR: *President* Bedjaoui; *Vice-President* Schwebel; *Judges* Oda, Sir Robert Jennings, Guillaume, Shahabuddeen, Aguilar-Mawdsley, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin; *Judge* ad hoc Sir Ninian Stephen;
>
> AGAINST: *Judge* Weeramantry; *Judge* ad hoc Skubiszewski."

*

Judges Oda, Shahabuddeen, Ranjeva and Vereshchetin appended separate opinions to the Judgment of the Court (*I.C.J. Reports 1995*,

pp. 107-118, 119-128, 129-134 and 135-138); Judge Weeramantry and Judge *ad hoc* Skubiszewski appended dissenting opinions (*I.C.J. Reports 1995*, pp. 139-223 and 224-277)

3. Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. *Senegal)*

On 12 March 1991, the Government of the Republic of Guinea-Bissau filed in the Registry of the Court an Application instituting proceedings against the Republic of Senegal in a dispute concerning the delimitation of all the maritime territories between the two States. Guinea-Bissau cited as bases for the Court's jurisdiction the declarations made by both States under Article 36, paragraph 2, of the Statute.

In its Application, Guinea-Bissau recalled that, by an Application dated 23 August 1989, it referred to the Court a dispute concerning the existence and validity of the Arbitral Award made on 31 July 1989 by the Arbitration Tribunal formed to determine the maritime boundary between the two States.

Guinea-Bissau claimed that the objective of the request laid before the Arbitration Tribunal was the delimitation of the maritime territories appertaining respectively to one and the other State. According to Guinea-Bissau, the decision of the Arbitration Tribunal of 31 July 1989, however, did not make it possible to draw a definitive delimitation of all the maritime areas over which the Parties had rights. Moreover, whatever the outcome of the proceedings pending before the Court, a real and definitive delimitation of all the maritime territories between the two States would still not be realized.

The Government of Guinea-Bissau asked the Court to adjudge and declare:

> "What should be, on the basis of the international law of the sea and of all the relevant elements of the case, including the future decision of the Court in the case concerning the Arbitral *'award'* of 31 July 1989, the line (to be drawn on a map) delimiting all the maritime territories appertaining respectively to Guinea-Bissau and Senegal."

In its Judgment of 12 November 1991 in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal)* (*I.C.J. Reports 1991*, p. 53) the Court took note of the filing of a second Application but added:

> "67. . . . It has also taken note of the declaration made by the Agent of Senegal in the present proceedings, according to which one solution
>
> 'would be to negotiate with Senegal, which has no objection to this, a boundary for the exclusive economic zone or, should it

prove impossible to reach an agreement, to bring the matter before the Court'.

68. Having regard to that Application and that declaration, and at the close of a long and difficult arbitral procedure and of these proceedings before the Court, the Court considers it highly desirable that the elements of the dispute that were not settled by the Arbitral Award of 31 July 1989 be resolved as soon as possible, as both Parties desire."

After the two Governments concerned had had time to study that Judgment, the President of the Court convened a meeting with the representatives of the Parties on 28 February 1992, at which however they requested that no time-limit be fixed for the initial pleadings in the case, pending the outcome of negotiations on the question of maritime delimitation; those negotiations were to continue for six months in the first instance, after which, if they had not been successful, a further meeting would be held with the President.

No indications having been received from the Parties as to the state of their negotiations, the President convened a further meeting with the Agents on 6 October 1992. The Agents stated that some progress had been made towards an agreement, and a joint request was made by the two Parties that a further period of three months, with a possible further extension of three months, be allowed for continuation of the negotiations. The President agreed to this, and expressed satisfaction at the efforts being made by the Parties to resolve their dispute by negotiation, in the spirit of the recommendation made in the Judgment of 12 November 1991.

After several exchanges of letters regarding extended time-limits, the President again convened the Agents of the Parties on 10 March 1994. At that meeting the Agents handed the President the text of an agreement entitled "Management and Co-operation Agreement between the Government of the Republic of Guinea-Bissau and the Government of the Republic of Senegal", done at Dakar on 14 October 1993 and signed by the two Heads of State. The Agreement, which provides, *inter alia*, for the joint exploitation, by the two Parties, of a "maritime zone situated between the 268° and 220° azimuths drawn from Cape Roxo" (Art. 1), and the establishment of an "International Agency for the exploitation of the zone" (Art. 4), will enter into force, according to the terms of its Article 7,

> "upon conclusion of the agreement concerning the establishment and functioning of the International Agency and with the exchange of the instruments of ratification of both agreements by both States".

In letters dated 16 March 1994, addressed to the Presidents of both States, the President of the Court expressed his satisfaction and informed them that the case would be removed from the list, in accordance with

the terms of the Rules of Court, as soon as the Parties had notified him of their decision to discontinue the proceedings.

4. Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

On 8 July 1991, the Government of the State of Qatar filed in the Registry of the Court an Application instituting proceedings against the Government of the State of Bahrain

> "in respect of certain existing disputes between them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States".

Qatar claimed that its sovereignty over the Hawar islands was well founded on the basis of customary international law and applicable local practices and customs. It had therefore continuously opposed a decision announced by the British Government in 1939, during the time of the British presence in Bahrain and Qatar (which came to an end in 1971), that the islands belonged to Bahrain. This decision was, in the view of Qatar, invalid, beyond the power of the British in relation to the two States, and not binding on Qatar.

With regard to the shoals of Dibal and Qit'at Jaradah, a further decision of the British Government in 1947 to delimit the sea-bed boundary between Bahrain and Qatar purported to recognize that Bahrain had "sovereign rights" in the areas of those shoals. In that decision the view was expressed that the shoals should not be considered to be islands having territorial waters. Qatar had claimed and continued to claim that such sovereign rights as existed over the shoals belonged to Qatar; it also considered however that these were shoals and not islands. Bahrain claimed in 1964 that Dibal and Qit'at Jaradah were islands possessing territorial waters, and belonged to Bahrain, a claim rejected by Qatar.

With regard to the delimitation of the maritime areas of the two States, in the letter informing the Rulers of Qatar and Bahrain of the 1947 decision it was stated that the British Government considered that the line divided "in accordance with equitable principles" the sea-bed between Qatar and Bahrain, and that it was a median line based generally on the configuration of the coastline of the Bahrain main island and the peninsula of Qatar. The letter further specified two exceptions. One concerned the status of the shoals; the other that of the Hawar islands.

Qatar stated that it did not oppose that part of the delimitation line which the British Government stated was based on the configuration of the coastlines of the two States and was determined in accordance with equitable principles. It had been rejecting and still rejected the claim made in 1964 by Bahrain (which had refused to accept the above-mentioned delimitation by the British Government) of a new line delimiting the sea-bed boundary of the two States. Qatar based its claims with

respect to delimitation on customary international law and applicable local practices and customs.

The State of Qatar therefore requested the Court:

"I. To adjudge and declare in accordance with international law

(A) that the State of Qatar has sovereignty over the Hawar islands; and

(B) that the State of Qatar has sovereign rights over Dibal and Qit'at Jaradah shoals;

and

II. With due regard to the line dividing the sea-bed of the two States as described in the British decision of 23 December 1947, to draw in accordance with international law a single maritime boundary between the maritime areas of sea-bed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain."

In the Application, Qatar founded the jurisdiction of the Court upon certain agreements between the Parties stated to have been concluded in December 1987 and December 1990, the subject and scope of the commitment to jurisdiction being determined, according to Qatar, by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990.

By letters addressed to the Registrar of the Court on 14 July 1991 and 18 August 1991, Bahrain contested the basis of jurisdiction invoked by Qatar.

At a meeting held on 2 October 1991 to enable the President of the Court to ascertain their views, the Parties reached agreement as to the desirability of the proceedings being initially devoted to the questions of the Court's jurisdiction to entertain the dispute and the admissibility of the Application. The President accordingly made, on 11 October 1991, an Order (*I.C.J. Reports 1991*, p. 50) deciding that the written proceedings should first be addressed to those questions; in the same Order he fixed the following time-limits in accordance with a further agreement reached between the Parties at the meeting of 2 October: 10 February 1992 for the Memorial of Qatar, and 11 June 1992 for the Counter-Memorial of Bahrain. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

By an Order of 26 June 1992 (*I.C.J. Reports 1992*, p. 237), the Court, having ascertained the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent be filed on the questions of jurisdiction and admissibility. It fixed 28 September 1992 as the time-limit for the Reply of Qatar and 29 December 1992 for the Rejoinder of Bahrain. Both the Reply and the Rejoinder were filed within the prescribed time-limits.

Qatar had chosen Mr. José María Ruda and Bahrain Mr. Nicolas

Valticos to sit as judges *ad hoc*. Following Mr. Ruda's death, Qatar chose Mr. Santiago Torres Bernárdez to sit as judge *ad hoc*.

Oral proceedings were held from 28 February to 11 March 1994. In the course of eight public sittings, the Court heard statements on behalf of Qatar and Bahrain. The Vice-President of the Court put questions to both the Parties.

At a public sitting held on 1 July 1994, the Court delivered a Judgment (*I.C.J. Reports 1994*, p. 112) by which it found that the exchanges of letters between the King of Saudi Arabia and the Amir of Qatar dated 19 and 21 December 1987, and between the King of Saudi Arabia and the Amir of Bahrain dated 19 and 26 December 1987, and the document headed "Minutes" and signed at Doha on 25 December 1990 by the Ministers for Foreign Affairs of Bahrain, Qatar and Saudi Arabia, were international agreements creating rights and obligations for the Parties; and that, by the terms of those agreements, the Parties had undertaken to submit to the Court the whole of the dispute between them, as circumscribed by the Bahraini formula. Having noted that it had before it only an Application from Qatar setting out that State's specific claims in connection with that formula, the Court decided to afford the Parties the opportunity to submit to it the whole of the dispute. It fixed 30 November 1994 as the time-limit within which the Parties were jointly or separately to take action to that end and reserved any other matters for subsequent decision.

Judge Shahabuddeen appended a declaration to the Judgment (*I.C.J. Reports 1994*, p. 129); Vice-President Schwebel and Judge *ad hoc* Valticos appended separate opinions (*ibid.*, pp. 130-131 and 132); and Judge Oda appended a dissenting opinion (*ibid.*, pp. 133-149).

On 30 November 1994, the date fixed in the Judgment of 1 July, the Court received from the Agent of Qatar a letter transmitting an "Act to comply with paragraphs (3) and (4) of the operative paragraph 41 of the Judgment of the Court dated 1 July 1994". On the same day, the Court received a communication from the Agent of Bahrain, transmitting the text of a document entitled "Report of the State of Bahrain to the International Court of Justice on the attempt by the Parties to implement the Court's Judgment of 1st July, 1994".

In view of those replies of Qatar and Bahrain to the requests made in the Judgment of 1 July 1994, the Court resumed dealing with the case.

At the public sitting held on 15 February 1995, the Court delivered its Judgment on Jurisdiction and Admissibility (*I.C.J. Reports 1995*, p. 6, a summary of which is given below, followed by the text of the operative paragraph.

History of the case and submissions (paras. 1-15)

In its Judgment the Court recalled that on 8 July 1991 Qatar had filed an Application instituting proceedings against Bahrain in respect of certain disputes between the two States relating to sovereignty over the

Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States.

The Court then recited the history of the case. It recalled that in its Application Qatar had founded the jurisdiction of the Court upon two agreements between the Parties stated to have been concluded in December 1987 and December 1990 respectively, the subject and scope of the commitment to jurisdiction being determined by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990 (the "Bahraini formula"). Bahrain had contested the basis of jurisdiction invoked by Qatar.

By its Judgment of 1 July 1994, the Court had found that the exchanges of letters between the King of Saudi Arabia and the Amir of Qatar dated 19 and 21 December 1987, and between the King of Saudi Arabia and the Amir of Bahrain dated 19 and 26 December 1987, and the document headed "Minutes" and signed at Doha on 25 December 1990 by the Ministers for Foreign Affairs of Bahrain, Qatar and Saudi Arabia, were international agreements creating rights and obligations for the Parties; and that, by the terms of those agreements, the Parties had undertaken to submit to the Court the whole of the dispute between them, as circumscribed by the Bahraini formula. Having noted that it had before it only an Application from Qatar setting out that State's specific claims in connection with that formula, the Court had decided to afford the Parties the opportunity to submit to it the whole of the dispute. It had fixed 30 November 1994 as the time-limit within which the Parties were jointly or separately to take action to that end; and had reserved any other matters for subsequent decision.

On 30 November 1994, the Agent of Qatar had filed in the Registry a document entitled "Act to comply with paragraphs (3) and (4) of operative paragraph 41 of the Judgment of the Court dated 1 July 1994". In the document, the Agent had referred to "the absence of an agreement between the Parties to act jointly" and had declared that he was thereby submitting to the Court "the whole of the dispute between Qatar and Bahrain, as circumscribed by the text . . . referred to in the 1990 Doha Minutes as the 'Bahraini formula' ".

He had enumerated the subjects which, in Qatar's view, fell within the Court's jurisdiction:

> "1. The Hawar Islands, including the island of Janan;
> 2. Fasht al Dibal and Qit'at Jaradah;
> 3. The archipelagic baselines;
> 4. Zubarah;
> 5. The areas for fishing for pearls and for fishing for swimming fish and any other matters connected with maritime boundaries.
>
> It is understood by Qatar that Bahrain defines its claim concerning Zubarah as a claim of sovereignty.
>
> Further to its Application Qatar requests the Court to adjudge and declare that Bahrain has no sovereignty or other territorial

> right over the island of Janan or over Zubarah, and that any claim by Bahrain concerning archipelagic baselines and areas for fishing for pearls and swimming fish would be irrelevant for the purpose of maritime delimitation in the present case."

On 30 November 1994, the Registry had also received from the Agent of Bahrain a document entitled "Report of the State of Bahrain to the International Court of Justice on the attempt by the Parties to implement the Court's Judgment of 1st July, 1994". In that "Report", the Agent had stated that his Government had welcomed the Judgment of 1 July 1994 and had understood it as confirming that the submission to the Court of "the whole of the dispute" must be "consensual in character, that is, a matter of agreement between the Parties". Yet, he had observed, Qatar's proposals had "taken the form of documents that could only be read as designed to fall within the framework of the maintenance of the case commenced by Qatar's Application of 8th July, 1991"; and, further, Qatar had denied Bahrain "the right to describe, define or identify, in words of its own choosing, the matters which it wishes specifically to place in issue", and had opposed "Bahrain's right to include in the list of matters in dispute the item of 'sovereignty over Zubarah' ".

Bahrain had submitted observations on Qatar's Act to the Court on 5 December 1994. It had said that

> "the Court did not declare in its Judgment of 1st July, 1994 that it had jurisdiction in the Case brought before it by virtue of Qatar's unilateral application of 1991. Consequently, if the Court did not have jurisdiction at that time, then the Qatari separate Act of 30th November, even when considered in the light of the Judgment, cannot create that jurisdiction or effect a valid submission in the absence of Bahrain's consent."

A copy of each of the documents produced by Qatar and Bahrain had been duly transmitted to the other Party.

Jurisdiction of the Court (paras. 16-44)

The Court began by referring to the negotiations held between the Parties following the Court's Judgment of 1 July 1994, to the "Act" addressed by Qatar to the Court on 30 November 1994, and to the comments made thereon by Bahrain on 5 December 1994.

The Court then recalled that, in its Judgment of 1 July 1994, it had reserved for subsequent decision all such matters as had not been decided in that Judgment. Accordingly, it was bound to rule on the objections of Bahrain in its decision on its jurisdiction to adjudicate upon the dispute submitted to it and on the admissibility of the Application.

Interpretation of paragraph 1 of the Doha Minutes (paras. 25-29)

Paragraph 1 of the Doha Minutes placed on record the agreement of the Parties to *"reaffirm what was agreed previously between [them]"*.

The Court proceeded, first of all, to define the precise scope of the commitments which the Parties had entered into in 1987 and agreed to reaffirm in the Doha Minutes of 1990. In this regard, the essential texts concerning the jurisdiction of the Court were points 1 and 3 of the letters of 19 December 1987. By accepting those points, Qatar and Bahrain had agreed, on the one hand, that

> "All the disputed matters shall be referred to the International Court of Justice, at The Hague, for a final ruling binding upon both parties, who shall have to execute its terms"

and, on the other, that a Tripartite Committee be formed

> "for the purpose of approaching the International Court of Justice, and satisfying the necessary requirements to have the dispute submitted to the Court in accordance with its regulations and instructions so that a final ruling, binding upon both parties, be issued".

Qatar maintained that, by that undertaking, the Parties had clearly and unconditionally conferred upon the Court jurisdiction to deal with the disputed matters between them. The work of the Tripartite Committee had been directed solely to considering the procedures to be followed to implement the commitment thus made to seise the Court. Bahrain on the contrary maintained that the texts in question expressed only the Parties' consent in principle to a seisin of the Court, but that such consent had clearly been subject to the conclusion of a Special Agreement marking the end of the work of the Tripartite Committee.

The Court could not agree with Bahrain in this respect. Neither in point 1 nor in point 3 of the letters of 19 December 1987 could it find the condition alleged by Bahrain to exist. It was indeed apparent from point 3 that the Parties did not envisage seising the Court without prior discussion, in the Tripartite Committee, of the formalities required to do so. But the two States had nonetheless agreed to submit to the Court all the disputed matters between them, and the Committee's only function had been to ensure that this commitment was given effect, by assisting the Parties to approach the Court and to seise it in the manner laid down by its Rules. By the terms of point 3, neither of the particular modalities of seisin contemplated by the Rules of Court had either been favoured or rejected.

The Tripartite Committee had met for the last time in December 1988, without the Parties having reached agreement either as to the "disputed matters" or as to the "necessary requirements to have the dispute submitted to the Court". It had ceased its activities at the instance of Saudi Arabia and without opposition from the Parties. As the Parties had not, at the time of signing the Doha Minutes in December 1990, asked to have the Committee re-established, the Court considered that paragraph 1 of those Minutes could only be understood as contemplating the acceptance by the Parties of point 1 in the letters from the King of Saudi Arabia dated 19 December 1987 (the commitment to submit to the Court

"all the disputed matters" and to comply with the judgment to be handed down by the Court), to the exclusion of point 3 in those same letters.

Interpretation of paragraph 2 of the Doha Minutes (paras. 30-42)

The Doha Minutes had not only confirmed the agreement reached by the Parties to submit their dispute to the Court, but had also represented a decisive step along the way towards a peaceful solution of that dispute, by settling the controversial question of the definition of the "disputed matters". This was one of the principal objects of paragraph 2 of the Minutes which, in the translation that the Court was to use for the purposes of the 1995 Judgment, read as follows:

> "(2) The good offices of the Custodian of the Two Holy Mosques, King Fahd Ben Abdul Aziz, shall continue between the two countries until the month of Shawwal 1411 A.H., corresponding to May 1991. Once that period has elapsed, the two parties may submit the matter to the International Court of Justice in accordance with the Bahraini formula, which has been accepted by Qatar, and with the procedures consequent on it. The good offices of the Kingdom of Saudi Arabia will continue during the period when the matter is under arbitration."

Paragraph 2 of the Minutes, which had formally placed on record Qatar's acceptance of the Bahraini formula, had put an end to the persistent disagreement of the Parties as to the subject of the dispute to be submitted to the Court. The agreement to adopt the Bahraini formula had shown that the Parties were at one on the extent of the Court's jurisdiction. The formula had thus achieved its purpose: it set, in general but clear terms, the limits of the dispute the Court would henceforth have to entertain.

The Parties nonetheless continued to differ on the question of the method of seisin. For Qatar, paragraph 2 of the Minutes had authorized a unilateral seisin of the Court by means of an application filed by one or the other Party, whereas for Bahrain, on the contrary, that text had only authorized a joint seisin of the Court by means of a special agreement.

The Parties had devoted considerable attention to the meaning which, according to them, should be given to the expression *"al-tarafan"* (Qatar: "the parties"; Bahrain: "the two parties") as used in the second sentence of the original Arabic text of paragraph 2 of the Doha Minutes. The Court observed that the dual form in Arabic served simply to express the existence of two units (the parties or the two parties), so what had to be determined was whether the words, when used in the Minutes in the dual form, had an *alternative* or a *cumulative* meaning: in the first case, the text would have left each of the Parties with the option of acting unilaterally, and, in the second, it would have implied that the question be submitted to the Court by both Parties acting in concert, either jointly or separately.

The Court first analysed the meaning and scope of the phrase "Once that period has elapsed, the two parties may submit the matter to the

International Court of Justice". It noted that the use in that phrase of the verb "may" suggested in the first place, and in its most material sense, the option or right for the Parties to seise the Court. In fact, the Court had difficulty in seeing why the 1990 Minutes, the object and purpose of which were to advance the settlement of the dispute by giving effect to the formal commitment of the Parties to refer it to the Court, would have been confined to opening up for them a possibility of joint action which not only had always existed but, moreover, had proved to be ineffective. On the contrary, the text assumed its full meaning if it was taken to be aimed, for the purpose of accelerating the dispute settlement process, at opening the way to a possible unilateral seisin of the Court in the event that the mediation of Saudi Arabia had failed to yield a positive result by May 1991. The Court also looked into the possible implications, with respect to that latter interpretation, of the conditions in which the Saudi mediation was to go forward, according to the first and third sentences of paragraph 2 of the Minutes. The Court further noted that the second sentence could be read as affecting the continuation of the mediation. On that hypothesis, the process of mediation would have been suspended in May 1991 and could not have resumed prior to the seisin of the Court. For the Court, it could not have been the purpose of the Minutes to delay the resolution of the dispute or to make it more difficult. From that standpoint, the right of unilateral seisin was the necessary complement to the suspension of mediation.

The Court then applied itself to an analysis of the meaning and scope of the terms "in accordance with the Bahraini formula, which has been accepted by Qatar, and with the procedures consequent on it", which conclude the second sentence of paragraph 2 of the Doha Minutes. The Court had to ascertain whether, as was maintained by Bahrain, that reference to the Bahraini formula and, in particular, to the "procedures consequent on it", had the aim and effect of ruling out any unilateral seisin. The Court was aware that the Bahraini formula had originally been intended to be incorporated into the text of a special agreement. However it considered that the reference to that formula in the Doha Minutes had to be evaluated in the context of those Minutes rather than in the light of the circumstances in which that formula had originally been conceived. If the 1990 Minutes referred back to the Bahraini formula it was in order to determine the subject-matter of the dispute which the Court would have to entertain. But the formula was no longer an element in a special agreement, which moreover never saw the light of day; it henceforth became part of a binding international agreement which itself determined the conditions for seisin of the Court. The Court noted that the very essence of that formula was, as Bahrain had clearly stated to the Tripartite Committee, to circumscribe the dispute with which the Court would have to deal, while leaving it to each of the Parties to present its own claims within the framework thus fixed. Given the failure to negotiate a special agreement, the Court took the view that the only procedural implication of the Bahraini formula on which the Parties

could have reached agreement in Doha was the possibility that each of them might submit distinct claims to the Court.

Consequently, it seemed to the Court that the text of paragraph 2 of the Doha Minutes, interpreted in accordance with the ordinary meaning to be given to its terms in their context and in the light of the object and purpose of the said Minutes, allowed the unilateral seisin of the Court.

In these circumstances, the Court did not consider it necessary to resort to supplementary means of interpretation in order to determine the meaning of the Doha Minutes but had recourse to them in order to seek a possible confirmation of its interpretation of the text. Neither the *travaux préparatoires* of the Minutes, however, nor the circumstances in which the Minutes had been signed, could, in the Court's view, provide it with conclusive supplementary elements for that interpretation.

Links between jurisdiction and seisin (para. 43)

The Court still had to examine one other argument. According to Bahrain, even if the Doha Minutes were to be interpreted as not ruling out unilateral seisin, that would still not authorize one of the Parties to seise the Court by way of an Application. Bahrain argued, in effect, that seisin was not merely a procedural matter but a question of jurisdiction; that consent to unilateral seisin was subject to the same conditions as consent to judicial settlement and must therefore be unequivocal and indisputable; and that, where the texts were silent, joint seisin had by default to be the only solution.

The Court considered that, as an act instituting proceedings, seisin was a procedural step independent of the basis of jurisdiction invoked. However, the Court was unable to entertain a case so long as the relevant basis of jurisdiction had not been supplemented by the necessary act of seisin: from that point of view, the question of whether the Court was validly seised appeared to be a question of jurisdiction. There was no doubt that the Court's jurisdiction could only be established on the basis of the will of the Parties, as evidenced by the relevant texts. However, in interpreting the text of the Doha Minutes, the Court had reached the conclusion that it allowed a unilateral seisin. Once the Court had been validly seised, both Parties were bound by the procedural consequences which the Statute and the Rules made applicable to the method of seisin employed.

In its Judgment of 1 July 1994, the Court had found that the exchanges of letters of December 1987 and the Minutes of December 1990 were international agreements creating rights and obligations for the Parties, and that by the terms of those agreements the Parties had undertaken to submit to it the whole of the dispute between them. In the 1995 Judgment, the Court noted that, at Doha, the Parties had reaffirmed their consent to its jurisdiction and determined the subject-matter of the dispute in accordance with the Bahraini formula; it had further noted that the Doha Minutes allowed unilateral seisin. The Court considered, consequently, that it had jurisdiction to adjudicate upon the dispute.

Admissibility (paras. 45-48)

Having thus established its jurisdiction, the Court still had to deal with certain problems of admissibility, as Bahrain had reproached Qatar with having limited the scope of the dispute only to those questions set out in Qatar's Application.

In its Judgment of 1 July 1994, the Court had decided:

> "to afford the Parties the opportunity to ensure the submission to the Court of the entire dispute as it is comprehended within the 1990 Minutes and the Bahraini formula, to which they have both agreed".

Qatar, by a separate act of 30 November 1994, had submitted to the Court "the whole of the dispute between Qatar and Bahrain, as circumscribed" by the Bahraini formula (see above, p. 172). The terms used by Qatar had been similar to those used by Bahrain in several draft texts, except in so far as those texts related to *sovereignty* over the Hawar islands and *sovereignty* over Zaharah. It appeared to the Court that the form of words used by Qatar accurately described the subject of the dispute. In the circumstances, the Court, while regretting that no agreement could be reached between the Parties as to how it should be presented, concluded that it was now seised of the whole of the dispute, and that the Application of Qatar was admissible.

Operative paragraph (para. 50)

"THE COURT,

(1) By 10 votes to 5,

Finds that it has jurisdiction to adjudicate upon the dispute submitted to it between the State of Qatar and the State of Bahrain;

IN FAVOUR: *President* Bedjaoui; *Judges* Si: Robert Jennings, Guillaume, Aguilar-Mawdsley, Weeramantry, Ranjeva, Herczegh, Shi, Fleischhauer; *Judge* ad hoc Torres Bernárdez;

AGAINST: *Vice-President* Schwebel; *Judges* Oda, Shahabuddeen, Koroma; *Judge* ad hoc Valticos.

(2) By 10 votes to 5,

Finds that the Application of the State of Qatar as formulated on 30 November 1994 is admissible.

IN FAVOUR: *President* Bedjaoui; *Judges* Sir Robert Jennings, Guillaume, Aguilar-Mawdsley, Weeramantry, Ranjeva, Herczegh, Shi, Fleischhauer; *Judge* ad hoc Torres Bernárdez;

AGAINST: *Vice-President* Schwebel; *Judges* Oda, Shahabuddeen, Koroma; *Judge* ad hoc Valticos."

*

Vice-President Schwebel, Judges Oda, Shahabuddeen and Koroma, and Judge *ad hoc* Valticos appended dissenting opinions to the Judgment (*I.C.J. Reports 1995*, pp. 27-39, 40-50, 51-66, 67-73 and 74-78).

*

By an Order of 28 April 1995 (*I.C.J. Reports 1995*, p. 83), the Court, having ascertained the views of Qatar and having given Bahrain an opportunity of stating its views, fixed 29 February 1996 as the time-limit for the filing by each of the Parties of a Memorial on the merits.

5, 6. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*

On 3 March 1992 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court two separate Applications instituting proceedings against the Government of the United Kingdom of Great Britain and Northern Ireland and against the United States of America in respect of a dispute over the interpretation and application of the Montreal Convention of 23 September 1971, a dispute arising from acts resulting in the aerial incident that occurred over Lockerbie, Scotland, on 21 December 1988.

In the Applications, Libya referred to the charging and indictment of two Libyan nationals by the Lord Advocate of Scotland and by a Grand Jury of the United States, respectively, with having caused a bomb to be placed aboard Pan Am flight 103. The bomb subsequently exploded, causing the aeroplane to crash, and all persons aboard were killed.

Libya pointed out that the acts alleged constituted an offence within the meaning of Article 1 of the Montreal Convention, which it claimed to be the only appropriate convention in force between the Parties, and claimed that it had fully complied with its own obligations under that instrument, Article 5 of which required a State to establish its own jurisdiction over alleged offenders present in its territory in the event of their non-extradition; there was no extradition treaty between Libya and the respective other Parties, and Libya was obliged under Article 7 of the Convention to submit the case to its competent authorities for the purpose of prosecution.

Libya contended that the United Kingdom and the United States were in breach of the Montreal Convention through rejection of its efforts to resolve the matter within the framework of international law, including the Convention itself, in that they were placing pressure upon Libya to surrender the two Libyan nationals for trial.

According to the Applications, it had not been possible to settle by negotiation the disputes that had thus arisen, neither had the Parties been

able to agree upon the organization of an arbitration to hear the matter. The Libyan Arab Jamahiriya therefore submitted the disputes to the Court on the basis of Article 14, paragraph 1, of the Montreal Convention.

Libya requested the Court to adjudge and declare as follows:

(a) that Libya has fully complied with all of its obligations under the Montreal Convention;

(b) that the United Kingdom and the United States respectively have breached, and are continuing to breach, their legal obligations to Libya under Articles 5 (2), 5 (3), 7, 8 (2) and 11 of the Montreal Convention; and

(c) that the United Kingdom and the United States respectively are under a legal obligation immediately to cease and desist from such breaches and from the use of any and all force or threats against Libya, including the threat of force against Libya, and from all violations of the sovereignty, territorial integrity, and the political independence of Libya.

Later the same day, Libya made two separate requests to the Court to indicate forthwith the following provisional measures:

(a) to enjoin the United Kingdom and the United States respectively from taking any action against Libya calculated to coerce or compel Libya to surrender the accused individuals to any jurisdiction outside of Libya; and

(b) to ensure that no steps are taken that would prejudice in any way the rights of Libya with respect to the legal proceedings that are the subject of Libya's Applications.

In those requests Libya also requested the President, pending the meeting of the Court, to exercise the power conferred on him by Article 74, paragraph 4, of the Rules of Court, to call upon the Parties to act in such a way as to enable any Order the Court might make on Libya's request for provisional measures to have its appropriate effects.

By a letter of 6 March 1992, the Legal Adviser of the United States Department of State, referring to the specific request made by Libya under Article 74, paragraph 4, of the Rules of Court, in its request for the indication of provisional measures, stated *inter alia* that

> "taking into account both the absence of any concrete showing of urgency relating to the request and developments in the ongoing action by the Security Council and the Secretary-General in this matter . . . the action requested by Libya . . . is unnecessary and could be misconstrued".

Libya chose Mr. Ahmed S. El-Kosheri to sit as judge *ad hoc*.

At the opening of the hearings on the request for the indication of provisional measures, on 26 March 1992, the Vice-President of the Court, exercising the functions of the presidency in the case, referred to the request made by Libya under Article 74, paragraph 4, of the Rules of Court and

ated that, after the most careful consideration of all the circumstances ıen known to him, he had come to the conclusion that it would not be ppropriate for him to exercise the discretionary power conferred on the resident by that provision. At five public sittings held on 26, 27 and 28 larch 1992, both Parties in each of the two cases presented oral arguments n the request for the indication of provisional measures. A Member of ıe Court put questions to both Agents in each of the two cases and the ıdge *ad hoc* put a question to the Agent of Libya.

At a public sitting held on 14 April 1992, the Court read the two rders on the requests for indication of provisional measures filed by ibya (*I.C.J. Reports 1992*, pp. 3 and 114), in which it found that the rcumstances of the cases were not such as to require the exercise of its ower to indicate such measures.

Acting President Oda (*ibid.*, pp. 17-19 and 129-131) and Judge Ni *bid.*, pp. 20-23 and 132-135) each appended a declaration to the Orders f the Court; Judges Evensen, Tarassov, Guillaume and Aguilar-lawdsley appended a joint declaration (*ibid.*, pp. 24-25 and 136-137). ıdges Lachs (*ibid.*, pp. 26-27 and 138-139) and Shahabuddeen (*ibid.*, p. 28-32 and 140-142) appended separate opinions; and Judges Bedjaoui *bid.*, pp. 33-49 and 143-159), Weeramantry (*ibid.*, pp. 50-71 and 60-181), Ranjeva (*ibid.*, pp. 72-77 and 182), Ajibola (*ibid.*, pp. 78-93 and 83-198) and Judge *ad hoc* El-Kosheri (*ibid.*, pp. 94-112 and 199-217) ppended dissenting opinions to the Orders.

By Orders of 19 June 1992 (*ibid.*, pp. 231 and 234), the Court, aking into account that the length of time-limits had been agreed by the arties at a meeting held on 5 June 1992 with the Vice-President of the ourt, exercising the function of the presidency in the two cases, fixed 0 December 1993 as the time-limit for the filing of the Memorial of Libya nd 20 June 1995 for the filing of the Counter-Memorials of the United ingdom and the United States of America. The Memorial was filed ithin the prescribed time-limit.

On 16 and 20 June 1995 respectively the United Kingdom and the nited States of America filed preliminary objections to the jurisdiction f the Court to entertain the Applications of the Libyan Arab Jamahiriya.

By virtue of Article 79, paragraph 3, of the Rules of Court, the roceedings on the merits are suspended when preliminary objections are led. Time-limits within which the Libyan Arab Jamahiriya may present ritten statements of its observations and submissions on the preliminary bjections raised will be fixed as soon as a meeting to ascertain the views f the Parties has been held between the President of the Court and the epresentatives of the Parties.

7. *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*

On 2 November 1992 the Islamic Republic of Iran filed in the Registry f the Court an Application instituting proceedings against the United tates of America with respect to the destruction of Iranian oil platforms.

The Islamic Republic founded the jurisdiction of the Court for the purposes of these proceedings on Article XXI (2) of the Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran, signed at Tehran on 15 August 1955.

In its Application Iran alleged that the destruction caused by several warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. In this connection Iran referred in particular to Articles I and X(1) of the Treaty which provide respectively: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran", and "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation".

The Islamic Republic accordingly requested the Court to adjudge and declare as follows:

"*(a)* that the Court has jurisdiction under the Treaty of Amity to entertain the dispute and to rule upon the claims submitted by the Islamic Republic;

(b) that in attacking and destroying the oil platforms referred to in the Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic, *inter alia*, under Article I and X (1) of the Treaty of Amity and international law;

(c) that in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X(1), and international law;

(d) that the United States is under an obligation to make reparations to the Islamic Republic for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. The Islamic Republic reserves the right to introduce and present to the Court in due course a precise evaluation of the reparations owed by the United States; and

(e) any other remedy the Court may deem appropriate."

By an Order of 4 December 1992 (*I.C.J. Reports 1992*, p. 763), the President of the Court, taking into account an agreement of the Parties, fixed 31 May 1993 as the time-limit for the filing of the Memorial of Iran and 30 November 1993 for the filing of the Counter-Memorial of the United States.

By an Order of 3 June 1993 (*I.C.J. Reports 1993*, p. 35), the President of the Court, upon the request of Iran and after the United States had indicated that it had no objection, extended those time-limits to 8 June

and 16 December 1993, respectively. The Memorial was filed within the prescribed time-limit.

The Islamic Republic of Iran chose Mr. François Rigaux to sit as judge *ad hoc*.

On 16 December 1993, within the extended time-limit for filing the Counter-Memorial, the United States of America filed certain preliminary objections to the Court's jurisdiction. In accordance with the terms of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended; by an Order of 18 January 1994 (*I.C.J. Reports 1994*, p. 3), the Court fixed 1 July 1994 as the time-limit within which Iran could present a written statement of its observations and submissions on the objections. That written statement was filed within the prescribed time-limit.

8. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia (Serbia and Montenegro))*

On 20 March 1993, the Republic of Bosnia and Herzegovina filed in the Registry of the Court an Application instituting proceedings against Yugoslavia (Serbia and Montenegro) "for violating the Genocide Convention".

The Application referred to several provisions of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, as well as of the Charter of the United Nations, which Bosnia and Herzegovina alleged were violated by Yugoslavia (Serbia and Montenegro). It also referred in this respect to the four Geneva Conventions of 1949 and their Additional Protocol I of 1977, to the Hague Regulations on Land Warfare of 1907, and to the Universal Declaration of Human Rights.

The Application referred to Article IX of the Genocide Convention as the basis for the jurisdiction of the Court.

In the Application, Bosnia and Herzegovina requested the Court to adjudge and declare:

"*(a)* that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Articles I, II *(a)*, II *(b)*, II *(c)*, II *(d)*, III *(a)*, III *(b)*, III *(c)*, III *(d)*, III *(e)*, IV and V of the Genocide Convention;

(b) that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;

(c) that Yugoslavia (Serbia and Montenegro) has violated and

continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;

(d) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;

(e) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles 1 (3), 55 and 56 of the United Nations Charter;

(f) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4), and 33 (1), of the United Nations Charter;

(g) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(h) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

- armed attacks against Bosnia and Herzegovina by air and land;
- aerial trespass into Bosnian airspace;
- efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(i) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(j) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4) of the United Nations Charter, as well as its obligations under general and customary international law;

(k) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend Itself and its People under United Nations Charter Article 51 and customary

international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;

(l) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment, supplies, troops, etc.);

(m) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(n) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(o) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United Nations Charter and in accordance with the customary doctrine of *ultra vires*;

(p) that pursuant to the right of collective self-defence recognized by United Nations Charter Article 51, all other State parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina – at its request – including by means of immediately providing It with weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.);

(q) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:

- from its systematic practice of so-called 'ethnic cleansing' of the citizens and sovereign territory of Bosnia and Herzegovina;
- from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;
- from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;

- from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- from continuing the siege of any civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- from the starvation of the civilian population in Bosnia and Herzegovina;
- from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;
- from all use of force – whether direct or indirect, overt or covert – against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;
- from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;
- from all support of any kind – including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support – to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina.

(r) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro)."

On the same day, the Government of Bosnia and Herzegovina, stating that:

> "The overriding objective of this Request is to prevent further loss of human life in Bosnia and Herzegovina",

and that:

> "The very lives, well-being, health, safety, physical, mental and bodily integrity, homes, property and personal possessions of hundreds of thousands of people in Bosnia and Herzegovina are right now at stake, hanging in the balance, awaiting the order of this Court",

filed a request for the indication of provisional measures under Article 41 of the Statute of the Court.

The provisional measures requested were as follows:

"1. That Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, must immediately cease and desist from all acts of genocide and genocidal acts against the People and State of Bosnia and Herzegovina, including but not limited to murder; summary executions; torture; rape; mayhem; so-called 'ethnic cleansing'; the wanton devastation of villages, towns, districts and cities; the siege of villages, towns, districts and cities; the starvation of the civilian population; the interruption of, interference with, or harassment of humanitarian relief supplies to the civilian population by the international community; the bombardment of civilian population centres; and the detention of civilians in concentration camps or otherwise.

2. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support – including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support – to any nation, group, organization, movement, militia or individual engaged in or planning to engage in military or paramilitary activities in or against the People, State and Government of Bosnia and Herzegovina.

3. That Yugoslavia (Serbia and Montenegro) itself must immediately cease and desist from any and all types of military or paramilitary activities by its own officials, agents, surrogates, or forces in or against the People, State and Government of Bosnia and Herzegovina, and from any other use or threat of force in its relations with Bosnia and Herzegovina.

4. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to seek and receive support from other States in order to defend Itself and its People, including by means of immediately obtaining military weapons, equipment and supplies.

5. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to request the immediate assistance of any State to come to its defence, including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.).

6. That under the current circumstances, any State has the right to come to the immediate defence of Bosnia and Herzegovina – at its request – including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, and airpeople, etc.)."

Hearings on the request for the indication of provisional measures were held on 1 and 2 April 1993. At two public sittings the Court heard the oral observations of each of the Parties. A Member of the Court put a question to both Agents.

At a public sitting held on 8 April 1993, the President of the Court read the Order on the request for provisional measures made by Bosnia and Herzegovina (*I.C.J. Reports 1993*, p. 3), the operative paragraph of which reads as follows:

"52. For these reasons,

THE COURT,

Indicates, pending its final decision in the proceedings instituted on 20 March 1993 by the Republic of Bosnia and Herzegovina against the Federal Republic of Yugoslavia (Serbia and Montenegro), the following provisional measures:

A. (1) Unanimously,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide;

(2) By 13 votes to 1,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group;

IN FAVOUR: *President* Sir Robert Jennings; *Vice-President* Oda; *Judges* Ago, Schwebel, Bedjaoui, Ni, Evensen, Guillaume, Shahabuddeen, Aguilar-Mawdsley, Weeramantry, Ranjeva, Ajibola;

AGAINST: *Judge* Tarassov.

B. Unanimously,

The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution."

*

Judge Tarassov appended a declaration to the Order (*I.C.J. Reports 1993*, pp. 26-27).

*

By an Order of 16 April 1993 (*I.C.J. Reports 1993*, p. 29), the President of the Court, taking into account an agreement of the Parties, fixed 15 October 1993 as the time-limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 for the filing of the Counter-Memorial of Yugoslavia (Serbia and Montenegro).

Bosnia and Herzegovina chose Mr. Elihu Lauterpacht and Yugoslavia (Serbia and Montenegro) Mr. Milenko Kreća to sit as judges *ad hoc*.

On 27 July 1993 the Republic of Bosnia and Herzegovina filed a second request for the indication of provisional measures, stating that:

> "This extraordinary step is being taken because the Respondent has violated each and every one of the three measures of protection on behalf of Bosnia and Herzegovina that were indicated by this Court on 8 April 1993, to the grave detriment of both the People and State of Bosnia and Herzegovina. In addition to continuing its campaign of genocide against the Bosnian People – whether Muslim, Christian, Jew, Croat or Serb – the Respondent is now planning, preparing, conspiring to, proposing, and negotiating the partition, dismemberment, annexation and incorporation of the sovereign State of Bosnia and Herzegovina – a Member of the United Nations Organization – by means of genocide."

The provisional measures then requested were as follows:

> "1. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support – including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support – to any nation, group, organization, movement, military, militia or para-military force, irregular armed unit, or individual in Bosnia and Herzegovina for any reason or purpose whatsoever.
>
> 2. That Yugoslavia (Serbia and Montenegro) and all of its public officials – including and especially the President of Serbia, Mr. Slobodan Milosevic – must immediately cease and desist from any and all efforts, plans, plots, schemes, proposals or negotiations to partition, dismember, annex or incorporate the sovereign territory of Bosnia and Herzegovina.
>
> 3. That the annexation or incorporation of any sovereign territory of the Republic of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) by any means or for any reason shall be deemed illegal, null, and void *ab initio*.
>
> 4. That the Government of Bosnia and Herzegovina must have the means 'to prevent' the commission of acts of genocide against its own People as required by Article I of the Genocide Convention.
>
> 5. That all Contracting Parties to the Genocide Convention are obliged by Article I thereof 'to prevent' the commission of acts of genocide against the People and State of Bosnia and Herzegovina.
>
> 6. That the Government of Bosnia and Herzegovina must have

the means to defend the People and State of Bosnia and Herzegovina from acts of genocide and partition and dismemberment by means of genocide.

7. That all Contracting Parties to the Genocide Convention have the obligation thereunder 'to prevent' acts of genocide, and partition and dismemberment by means of genocide, against the People and State of Bosnia and Herzegovina.

8. That in order to fulfil its obligations under the Genocide Convention under the current circumstances, the Government of Bosnia and Herzegovina must have the ability to obtain military weapons, equipment, and supplies from other Contracting Parties.

9. That in order to fulfil their obligations under the Genocide Convention under the current circumstances, all Contracting Parties thereto must have the ability to provide military weapons, equipment, supplies and armed forces (soldiers, sailors, airpeople) to the Government of Bosnia and Herzegovina at its request.

10. That United Nations Peacekeeping Forces in Bosnia and Herzegovina (i.e., UNPROFOR) must do all in their power to ensure the flow of humanitarian relief supplies to the Bosnian People through the Bosnian city of Tuzla."

On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court,

> "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects",

and stating:

> "I do now call upon the Parties so to act, and I stress that the provisional measures already indicated in the Order which the Court made after hearing the Parties, on 8 April 1993, still apply.
>
> Accordingly I call upon the Parties to take renewed note of the Court's Order and to take all and any measures that may be within their power to prevent any commission, continuance, or encouragement of the heinous international crime of genocide."

On 10 August 1993 Yugoslavia filed a request, dated 9 August 1993, for the indication of provisional measures, whereby it requested the Court to indicate the following provisional measure:

> "The Government of the so-called Republic of Bosnia and Herzegovina should immediately, in pursuance of its obligation under the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide against the Serb ethnic group."

The hearings concerning the further requests for the indication of

provisional measures were held on 25 and 26 August 1993. In the course of two public sittings the Court heard statements from each of the Parties. Judges put questions to both Parties.

At a public sitting held on 13 September 1993, the President of the Court read out the Order concerning the further requests for the indication of provisional measures (*I.C.J. Reports 1993*, p. 325), by which the Court reaffirmed the provisional measures indicated in its order of 8 April 1993, which measures, the Court stated, should be immediately and effectively implemented.

Judge Oda appended a declaration to the Order (*I.C.J. Reports 1993*, pp. 351-352); Judges Shahabuddeen, Weeramantry and Ajibola and Judge *ad hoc* Lauterpacht appended separate opinions (*ibid.*, pp. 353-369, 370-389, 390-406 and 407-448); and Judge Tarassov and Judge *ad hoc* Kreća appended dissenting opinions (*ibid.*, pp. 449-452 and 453-465).

By an Order of 7 October 1993 (*I.C.J. Reports 1993*, p. 470), the Vice-President of the Court, at the request of Bosnia and Herzegovina and after Yugoslavia (Serbia and Montenegro) had expressed its opinion, extended to 15 April 1994 the time-limit for the filing of the Memorial of Bosnia and Herzegovina, and to 15 April 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia (Serbia and Montenegro). The Memorial was filed within the prescribed time-limit.

By an Order of 21 March 1995 (*I.C.J. Reports 1995*, p. 80), the President of the Court, upon a request of the Agent of Yugoslavia (Serbia and Montenegro) and after the views of Bosnia and Herzegovina had been ascertained, extended to 30 June 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia (Serbia and Montenegro).

On 26 June 1995, within the extended time-limit for the filing of its Counter-Memorial, Yugoslavia (Serbia and Montenegro), filed certain preliminary objections. The objections related, firstly, to the admissibility of the Application and, secondly, to the jurisdiction of the Court to deal with the case.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provision of that Article.

By an Order of 14 July 1995 (*I.C.J. Reports 1995*, p. 279), the President of the Court, taking into account the views expressed by the Parties, fixed 14 November 1995 as the time-limit within which the Republic of Bosnia and Herzegovina may present a written statement of its observations and submissions on the preliminary objections raised by the Federal Republic of Yugoslavia (Serbia and Montenegro).

9. Gabčikovo-Nagymaros Project (Hungary/Slovakia)

On 23 October 1992 the Ambassador of the Republic of Hungary to the Netherlands filed in the Registry of the Court an Application insti-

tuting proceedings against the Czech and Slovak Federal Republic in a dispute concerning the projected diversion of the Danube. In that document the Hungarian Government, before detailing its case, invited the Czech and Slovak Federal Republic to accept the jurisdiction of the Court.

A copy of the Application was transmitted to the Government of the Czech and Slovak Federal Republic in accordance with Article 38, paragraph 5, of the Rules of Court, which reads as follows:

> "When the Applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Following negotiations under the aegis of the European Communities between Hungary and the Czech and Slovak Federal Republic, which dissolved into two separate States on 1 January 1993, the Governments of the Republic of Hungary and of the Slovak Republic notified jointly, on 2 July 1993, to the Registrar of the Court a Special Agreement, signed at Brussels on 7 April 1993, for the submission to the Court of certain issues arising out of differences which had existed between the Republic of Hungary and the Czech and Slovak Federal Republic, regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the Construction and Operation of the Gabčíkovo-Nagymaros Barrage System and on the construction and operation of the "provisional solution". The Special Agreement records that the Slovak Republic is in this respect the sole successor State of the Czech and Slovak Federal Republic.

In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> *(a)* whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> *(b)* whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);

(c) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.

(2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph 1 of this Article."

By an Order of 14 July 1993 (*I.C.J. Reports 1993*, p. 319) the Court decided that, as provided in Article 3, paragraph 2, of the Special Agreement and Article 46, paragraph 1, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time-limit, and fixed 2 May 1994 and 5 December 1994 as the time-limits for the filing of the Memorial and Counter-Memorial, respectively. The Memorials and Counter-Memorials were filed within the prescribed time-limits.

Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge *ad hoc*.

By an Order of 20 December 1994 (*I.C.J. Reports 1994*, p. 151), the President of the Court, taking into account the views of the Parties, fixed 20 June 1995 as the time-limit for the filing of a Reply by each of the Parties. Those Replies were filed within the prescribed time-limit.

10. Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria)*

On 29 March 1994 the Republic of Cameroon filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Nigeria in a dispute concerning the question of sovereignty over the peninsula of Bakassi, and requesting the Court to determine the course of the maritime frontier between the two States in so far as that frontier had not already been established in 1975.

As a basis for the jurisdiction of the Court, the Application refers to the declarations made by Cameroon and Nigeria under Article 36, paragraph 2, of the Statute of the Court, by which they accept that jurisdiction as compulsory.

In the Application Cameroon refers to "an aggression by the Federal Republic of Nigeria, whose troops are occupying several Cameroonian localities on the Bakassi Peninsula", resulting "in great prejudice to the Republic of Cameroon", and requests the Court to adjudge and declare:

"*(a)* that sovereignty over the Peninsula of Bakassi is Cameroonian, by virtue of international law, and that that Peninsula is an integral part of the territory of Cameroon;

(b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization *(uti possidetis juris)*;

(c) that by using force against the Republic of Cameroon, the Federal Republic of Nigeria has violated and is violating its obligations under international treaty law and customary law;

(d) that the Federal Republic of Nigeria, by militarily occupying the Cameroonian Peninsula of Bakassi, has violated and is violating the obligations incumbent upon it by virtue of treaty law and customary law;

(e) that in view of these breaches of legal obligation, mentioned above, the Federal Republic of Nigeria has the express duty of putting an end to its military presence in Cameroonian territory, and effecting an immediate and unconditional withdrawal of its troops from the Cameroonian Peninsula of Bakassi;

(e') that the internationally unlawful acts referred to under *(a)*, *(b)*, *(c)*, *(d)*, and *(e)* above involve the responsibility of the Federal Republic of Nigeria;

(e") that, consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federal Republic of Nigeria;

(f) in order to prevent any dispute arising between the two States concerning their maritime boundary, the Republic of Cameroon requests the Court to proceed to prolong the course of its maritime boundary with the Federal Republic of Nigeria up to the limit of the maritime zones which international law places under their respective jurisdictions."

On 6 June 1994 Cameroon filed in the Registry of the Court an Additional Application "for the purpose of extending the subject of the dispute" to a further dispute described as relating essentially "to the question of sovereignty over a part of the territory of Cameroon in the area of Lake Chad", while also asking the Court to specify definitively the frontier between Cameroon and Nigeria from Lake Chad to the sea. Cameroon requested the Court to adjudge and declare:

"*(a)* that sovereignty over the disputed parcel in the area of Lake Chad is Cameroonian, by virtue of international law, and that that parcel is an integral part of the territory of Cameroon;

(b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization *(uti possidetis juris)*, and its recent legal commitments concerning the demarcation of frontiers in Lake Chad;

(c) that the Federal Republic of Nigeria, by occupying, with the support of its security forces, parcels of Cameroonian territory in the area of Lake Chad, has violated and is violating its obligations under treaty law and customary law;

(d) that in view of these legal obligations, mentioned above, the Federal Republic of Nigeria has the express duty of effecting an immediate and unconditional withdrawal of its troops from Cameroonian territory in the area of Lake Chad;

(e) that the internationally unlawful acts referred to under *(a)*, *(b)*, and *(d)* above involve the responsibility of the Federal Republic of Nigeria;

(e') that consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federal Republic of Nigeria;

(f) that in view of the repeated incursions of Nigerian groups and armed forces into Cameroonian territory, all along the frontier between the two countries, the consequent grave and repeated incidents, and the vacillating and contradictory attitude of the Federal Republic of Nigeria in regard to the legal instruments defining the frontier between the two countries and the exact course of that frontier, the Republic of Cameroon respectfully asks the Court to specify definitively the frontier between Cameroon and the Federal Republic of Nigeria from Lake Chad to the sea."

Cameroon further requested the Court to join the two Applications "and to examine the whole in a single case".

At a meeting between the President of the Court and the representatives of the Parties held on 14 June 1994, the Agent of Nigeria indicated that his Government had no objection to the Additional Application being treated as an amendment to the initial Application, so that the Court could deal with the whole as one case.

Cameroon chose Mr. Kéba Mbaye and Nigeria Prince Bola A. Ajibola to sit as judges *ad hoc*.

By an Order of 16 June 1994, the Court, seeing no objection to such a procedure, fixed 16 March 1995 as the time-limit for filing the Memorial of Cameroon, and 18 December 1995 as the time-limit for filing the Counter-Memorial of Nigeria. The Memorial was filed within the prescribed time-limit.

11. Fisheries Jurisdiction (Spain v. *Canada)*

On 28 March 1995 the Kingdom of Spain filed in the Registry of the Court an Application instituting proceedings against Canada with respect to a dispute relating to the Canadian Coastal Fisheries Protection Act, as amended on 12 May 1994, and to the implementing regulations of that Act, as well as to certain measures taken on the basis of

that legislation, more particularly the boarding on the high seas, on 9 March 1995, of a fishing boat, the *Estai*, sailing under the Spanish flag.

The Application indicated, *inter alia*, that by the amended Act "an attempt was made to impose on all persons on board foreign ships a broad prohibition on fishing in the NAFO [Northwest Atlantic Fisheries Organization] Regulatory Area – that is, on the high seas, outside Canada's exclusive economic zone"; that the Act "expressly permits (Art. 8) the use of force against foreign fishing boats in the zones that Article 2.1 unambiguously terms the 'high seas' "; that the rules of application of 25 May 1994 provided, in particular, for "the use of force by fishery protection officers against the foreign fishing boats covered by those regulations . . . which infringe their mandates in the zone of the high seas within the scope of those regulations"; and that the implementing regulations of 3 March 1995 "expressly permit[. . .] such conduct as regards Spanish and Portuguese ships on the high seas".

The Application alleged the violation of various principles and norms of international law and stated that there was a dispute between the Kingdom of Spain and Canada which, going beyond the framework of fishing, seriously affected the very principle of the freedom of the high seas and, moreover, implied a very serious infringement of the sovereign rights of Spain.

As a basis of the Court's jurisdiction, the Applicant referred to the declarations of Spain and of Canada made in accordance with Article 36, paragraph 2, of the Statute of the Court.

In that regard, the Application specified that:

> "The exclusion of the jurisdiction of the Court in relation to disputes which may arise from management and conservation measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area and the enforcement of such measures (Declaration of Canada, para. 2 *(d)*, introduced as recently as 10 May 1994, two days prior to the amendment of the Coastal Fisheries Protection Act), does not even partially affect the present dispute. Indeed, the Application of the Kingdom of Spain does not refer exactly to the disputes concerning those measures, but rather to their origin, to the Canadian legislation which constitutes their frame of reference. The Application of Spain directly attacks the title asserted to justify the Canadian measures and their actions to enforce them, a piece of legislation which, going a great deal further than the mere management and conservation of fishery resources, is in itself an internationally wrongful act of Canada, as it is contrary to the fundamental principles and norms of international law; a piece of legislation which for that reason does not fall exclusively within the jurisdiction of Canada either, according to its own Declaration (para. 2 *(c)* thereof). Moreover, only as from 3 March 1995 has an attempt been made to extend that legislation, in a discriminatory

manner, to ships flying the flags of Spain and Portugal, which has led to the serious offences against international law set forth above."

While expressly reserving the right to modify and extend the terms of the Application, as well as the grounds invoked, and the right to request the appropriate provisional measures, the Kingdom of Spain requested:

"(A) that the Court declare that the legislation of Canada, in so far as it claims to exercise a jurisdiction over ships flying a foreign flag on the high seas, outside the exclusive economic zone of Canada, is not opposable to the Kingdom of Spain;

(B) that the Court adjudge and declare that Canada is bound to refrain from any repetition of the acts complained of, and to offer to the Kingdom of Spain the reparation that is due, in the form of an indemnity the amount of which must cover all the damages and injuries occasioned; and

(C) that, consequently, the Court declare also that the boarding on the high seas, on 9 March 1995, of the ship *Estai* flying the flag of Spain, and the measures of coercion and the exercise of jurisdiction over that ship and over its captain constitute a concrete violation of the aforementioned principles and norms of international law."

By a letter dated 21 April 1995, the Ambassador of Canada to the Netherlands informed the Court that, in the view of his Government, the Court manifestly lacked jurisdiction to deal with the Application filed by Spain by reason of paragraph 2 *(d)* of the Declaration, dated 10 May 1994, whereby Canada accepted the compulsory jurisdiction of the Court.

Taking into account an agreement concerning the procedure reached between the Parties at a meeting with the President of the Court, held on 27 April 1995, the President, by an Order of 2 May 1995, decided that the written proceedings should first be addressed to the question of the jurisdiction of the Court to entertain the dispute and fixed 29 September 1995 as the time-limit for the filing of the Memorial of the Kingdom of Spain and 29 February 1996 for the filing of the Counter-Memorial of Canada.

B. REQUESTS FOR ADVISORY OPINION

Legality of the Use by a State of Nuclear Weapons in Armed Conflict

On 14 May 1993 the World Health Assembly of the World Health Organization adopted resolution WHA46.40 by which the Assembly requested the International Court of Justice to give an advisory opinion on the following question:

"In view of the health and environmental effects, would the use of nuclear weapons by a State in war or other armed conflict be a breach of its obligations under international law including the WHO Constitution?"

The letter of the Director-General of the World Health Organization (WHO) transmitting to the Court the request for an advisory opinion, together with certified true copies of the English and French texts of the aforesaid resolution, dated 27 August 1993, was received in the Registry on 3 September 1993.

By an Order of 13 September 1993 (*I.C.J. Reports 1993*, p. 467), the Court fixed 10 June 1994 as the time-limit within which written statements might be submitted to the Court by the World Health Organization and by those of its member States which were entitled to appear before the Court, in accordance with Article 66, paragraph 2, of the Statute of the Court.

By an Order of 20 June 1994 (*I.C.J. Reports 1994*, p. 109), the President of the Court, following requests from several of the aforesaid States, extended that time-limit to 20 September 1994.

By the same Order, the President fixed 20 June 1995 as the time-limit within which States and organizations having presented written statements might submit written comments on the other written statements (Art. 66, para. 4, of the Statute of the Court).

Written statements were filed by Australia, Azerbaijan, Colombia, Costa Rica, the Democratic People's Republic of Korea, Finland, France, Germany, India, Ireland, the Islamic Republic of Iran, Italy, Japan, Kazakhstan, Lithuania, Malaysia, Mexico, Moldova, Nauru, the Netherlands, New Zealand, Norway, Papua New Guinea, the Philippines, the Russian Federation, Rwanda, Samoa, Saudi Arabia, the Solomon Islands, Sri Lanka, Sweden, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Written comments were filed by France, India, Malaysia, Nauru, the Russian Federation, the Solomon Islands, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The written proceedings in this case were thus concluded.

The public sittings to be held for the purpose of hearing oral statements or comments on the request for advisory opinion made by the World Health Organization will open on 30 October 1995. These oral proceedings will also cover the request for advisory opinion submitted by the General Assembly of the United Nations on the question of the *Legality of the Threat or Use of Nuclear Weapons* (see below).

2. Legality of the Threat or Use of Nuclear Weapons

On 15 December 1994, the General Assembly of the United Nations adopted resolution 49/75 K, entitled "Request for an Advisory Opinion from the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons", by which, pursuant to Article 96, paragraph 1, of the Charter of the United Nations, it requested the Court

> "urgently to render its advisory opinion on the following question: 'Is the threat or use of nuclear weapons in any circumstance permitted under international law?' "

The request was transmitted to the Court by the Secretary-General of the United Nations in a letter dated 19 December 1994, received in the Registry by facsimile on 20 December 1994 and filed in the original on 6 January 1995.

By an Order of 1 February 1995, the Court decided that States entitled to appear before the Court and the United Nations might furnish information on the question submitted to the Court and fixed 20 June 1995 as the time-limit within which written statements might be submitted (Art. 66, para. 2, of the Statute of the Court) and 20 September 1995 as the time-limit within which States and organizations having presented written statements might present written comments on the other written statements (Art. 66, para. 4, of the Statute).

Written statements were filed by Bosnia and Herzegovina, Burundi, the Democratic People's Republic of Korea, Ecuador, Egypt, Finland, France, Germany, India, Ireland, the Islamic Republic of Iran, Italy, Japan, Lesotho, Malaysia, the Marshall Islands, Mexico, Nauru, the Netherlands, New Zealand, Qatar, the Russian Federation, Samoa, San Marino, the Solomon Islands, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Public sittings to be held for the purpose of hearing oral statements or comments on the request for advisory opinion submitted by the General Assembly will open on 30 October 1995. These oral proceedings will also cover the request for advisory opinion submitted by the World Health Organization on the question of the *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* (see above, p. 197).

II. Application of the Statute and Rules of Court

1. Organization of the Court

(a) *Death in office of two judges and election of two new judges*
(Statute, Arts. 14 and 15; Rules, Arts. 2 and 3)

During the period under review, two judges died in office. Elections were held by the General Assembly and the Security Council to fill the resulting vacancies (see Chap. I, p. 9, above).

(b) *Resignation of a judge and election of a new judge*
(Statute, Arts. 13, para. 4, 14 and 15; Rules, Arts. 2, 3 and 5, para. 1)

One judge resigned during the period under review. Elections were held by the General Assembly and Security Council to fill the resulting vacancy (see Chap. I, p. 9, above).

(c) *Installation of new judges*
(Statute, Art. 20; Rules, Art. 4)

The two newly elected judges referred to under *(a)* above made their

solemn declarations at public sittings of the Court, on 1 February and on 30 June 1995.

(d) *The Presidency*

(Statute, Art. 48; Rules, Arts. 44 and 48)

In the case concerning the *Gabčíkovo-Nagymaros Project* (*Hungary/Slovakia*), the President made an Order fixing a time-limit. He extended a time-limit by an Order made in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*. By another Order in the same case, the President fixed a time-limit within which one of the Parties might present a written statement of its observations and submissions on the preliminary objections which had been raised by the other Party. In the *Fisheries Jurisdiction (Spain* v. *Canada)* case the President made an Order by which he decided that the written proceedings should first be addressed to the question of the jurisdiction of the Court to entertain the dispute and fixed time-limits for the filing of the pleadings.

(e) *Non-participation of a judge in a case*

(Statute, Art. 23, para. 3; Rules, Art. 20, para. 2)

In the cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* and *East Timor (Portugal* v. *Australia)*, a Member of the Court was prevented by illness from taking part in the deliberation and final vote.

(f) *Judges* ad hoc

(Statute, Arts. 20 and 31; Rules, Arts. 4, 8 and 35, paras. 1 and 5)

The judge *ad hoc* originally chosen by Portugal in the case concerning *East Timor (Portugal* v. *Australia)* having resigned, that State chose another person (see p. 162, above) to sit as judge *ad hoc*. That judge *ad hoc* and the judge *ad hoc* chosen by Australia made their solemn declarations at the opening of the hearings in the case.

Following the death of the judge *ad hoc* chosen by Qatar in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*, that State chose another person (see pp. 170–171, above) to sit as judge *ad hoc*. The new judge *ad hoc* made his solemn declaration at the special sitting held in tribute to the memory of the deceased judge *ad hoc*. The judge *ad hoc* chosen by Bahrain resigned for reasons of health, as from the end of the jurisdiction and admissibility phase.

In the case concerning the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Slovakia also exercised the power to choose a judge *ad hoc* (see p. 193, above).

(g) *Chamber of Summary Procedure*
(Statute, Art. 29)

The Court composed the Chamber of Summary Procedure, consisting of five Judges and two alternate Judges (see Chap. I, p. 17, above).

(h) *Chamber of the Court for Environmental Matters*
(Statute, Art. 26, para. 1; Rules, Arts. 16 and 18)

The Court extended until 5 February 1997 the mandate of the seven Members of the Chamber for Environmental Matters, which the Court established in July 1993 (see Chap. I, p. 17, above).

2. Jurisdiction of the Court
(Statute, Art. 36)

(a) *Jurisdiction and seisin*

In its Judgment of 15 February 1995 in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* (*I.C.J. Reports 1995*, p. 6) the Court examined one of the arguments put forward to contest its jurisdiction in that case and which concerned the links between jurisdiction and seisin. The relevant paragraph (*ibid.*, pp. 23-24) reads as follows:

> "43. The Court has still to examine one other argument put forward by Bahrain to contest its jurisdiction in this case. According to Bahrain, even if the Doha Minutes were to be interpreted as not ruling out unilateral seisin, that would still not authorize one of the Parties to seise the Court by way of an Application. Bahrain argues, in effect, that seisin is not merely a procedural matter but a question of jurisdiction; that consent to unilateral seisin is subject to the same conditions as consent to judicial settlement and must therefore be unequivocal and indisputable; and that, where the texts are silent, joint seisin must by default be the only solution. Qatar, for its part, distinguishes between seisin and jurisdiction and explains that, while the wishes of the Parties, as expressed in the agreements in force, are of decisive importance for the purpose of establishing jurisdiction, the validity of the seisin must on the other hand be evaluated essentially from the standpoint of the Statute and the Rules of Court, subject to any special provision to which the Parties may have agreed.
>
> The Court does not consider it necessary to dwell at length on the links which exist between jurisdiction and seisin. It is true that, as an act instituting proceedings, seisin is a procedural step independent of the basis of jurisdiction invoked and, as such, is governed by the Statute and the Rules of Court. However, the Court is unable to entertain a case so long as the relevant basis of jurisdiction has not been supplemented by the necessary act of seisin: from this point of

view, the question of whether the Court was validly seised appears to be a question of jurisdiction. There is no doubt that the Court's jurisdiction can only be established on the basis of the will of the Parties, as evidenced by the relevant texts. But in interpreting the text of the Doha Minutes, the Court has reached the conclusion that it allows a unilateral seisin. Once the Court has been validly seised, both Parties are bound by the procedural consequences which the Statute and the Rules make applicable to the method of seisin employed. It is therefore not necessary to examine Bahrain's arguments based on the discretionary nature of the choice of a method of seisin or the drawbacks for Bahrain of being placed in the position of respondent."

(b) *Decision of the President of the Court on the question of jurisdiction*
(Statute, Arts. 36, para. 6, 48; Rules, Arts. 31, 44 and 48)

In the *Fisheries Jurisdiction (Spain* v. *Canada)* case, the Respondent contested the basis of the Court's jurisdiction relied upon by the Applicant. At a meeting between the President and the representatives of the Parties held on 27 April 1995 in accordance with Article 31 of the Rules of Court, it was agreed that the question of the jurisdiction of the Court in this case should be separately determined before any proceedings on the merits. Taking into account the agreement concerning the procedure reached between the Parties at that meeting, the President of the Court decided that the question of the jurisdiction of the Court would be separately determined before any proceedings on the merits and fixed time-limits for the filing of a Memorial and a Counter-Memorial on that question (see above, p. 197).

(c) *Preliminary objections*
(Rules, Art. 79)

In the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, the United Kingdom and the United States respectively filed, within the time-limit for the filing of the Counter-Memorial, preliminary objections to the jurisdiction of the Court and the admissibility of the Application (see above, p. 181). In accordance with Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were consequently suspended. Time-limits within which the Libyan Arab Jamahiriya may present written statements of its observations and submissions on the preliminary objections raised will be fixed as soon as a meeting to ascertain the views of the Parties in accordance with Article 31 of the Rules of Court has been held between the President of the Court and the representatives of the Parties (see above, p. 181).

In the case concerning *Application of the Convention on the Prevention*

and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia (Serbia and Montenegro))*, Yugoslavia, within the extended time-limit for the filing of its Counter-Memorial, filed certain preliminary objections. The objections related, firstly to the admissibility of the Application and secondly to the jurisdiction of the Court to deal with the case. In accordance with Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended; and after having ascertained the views of the Parties in accordance with Article 31 of the Rules, the President of the Court fixed the time-limit within which Bosnia and Herzegovina might present written statements of observations and submissions on the objections (see above, p. 191).

3. Contentious Procedure

(a) *Institution of proceedings*

(Statute, Art. 40; Rules, Art. 38)

Proceedings in the *Fisheries Jurisdiction (Spain* v. *Canada)* case were instituted by an Application. The Registrar proceeded with the requisite communications, in accordance with Article 40 of the Statute.

(b) *Documents deposited in conformity with the Judgment of the Court of 1 July 1994*

In the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*, the Agent of Qatar filed on 30 November 1994, within the time-limit laid down in the Judgment of 1 July 1994, a document entitled "Act to comply with paragraphs (3) and (4) of operative paragraph 41 of the Judgment of the Court dated 1 July 1994". In the document, the Agent referred to "the absence of an agreement between the Parties to act jointly" and declared that he was thereby submitting to the Court "the whole of the dispute between Qatar and Bahrain, as circumscribed by the text . . . referred to in the 1990 Doha Minutes as the 'Bahraini formula' ". The Agent of Bahrain, also on 30 November 1994, communicated to the Court a document entitled "Report of the State of Bahrain to the International Court of Justice on the attempt by the Parties to implement the Court's Judgment of 1st July, 1994".

(c) *Fixing of time-limits*

(Statute, Art. 48)

The Court fixed time-limits in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* (see above, p. 179). In accordance with paragraph 39 of the Court's Judgment of 1 July 1994 and paragraph 49 of the Judgment of 15 February 1995, the time-limit fixed was for the simultaneous filing of a Memorial on the merits by each of the Parties. (For the fixing and extension of time-limits by the President of the Court, see above, p. 200, under para. 1 *(d)*).

(d) *Filing of pleadings*

In the following cases, pleadings were filed by the Parties within the prescribed time-limits: *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* (see above, p. 193) and *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)* (see above, p. 195). Within the time-limits fixed for the filing of a Counter-Memorial, the respondent Parties in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)* and in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro))*, filed preliminary objections (see above, p. 202, under para. 2 *(c)*).

(e) *Presentation of new documents*

(Statute, Art. 52; Rules, Art. 56, para. 4)

During the oral proceedings in the case concerning *East Timor (Portugal* v. *Australia)*, each of the Parties, referring to Article 56, paragraph 4, of the Rules of Court, presented documents not previously produced. Portugal objected to the presentation of one of these by Australia, on the ground that the document concerned was not "part of a publication readily available" within the meaning of that provision. Having ascertained Australia's views, the Court examined the question and informed the Parties that it had decided not to admit the document to the record in the case.

(f) *Accessibility of pleadings to the public*

(Rules, Art. 53, para. 2)

In the case concerning *East Timor (Portugal* v. *Australia)*, the Court, after ascertaining the views of the Parties, decided that the pleadings should be made accessible to the public as from the opening of the oral proceedings.

(g) *Oral proceedings*

(Statute, Arts. 43, paras. 5, 45 and 46; Rules, Arts. 54 and 58)

The hearings in the case concerning the *Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America)*, scheduled to open on 12 September 1994, were postponed *sine die* at the joint request of the Parties (see above, p. 160). In the case concerning *East Timor (Portugal* v. *Australia)*, the oral proceedings consisted of two rounds of arguments in which both States participated.

(h) *Final submissions*

(Rules, Art. 60, para. 2)

In the second round of oral arguments in the case concerning *East Timor (Portugal* v. *Australia)*, the Agents of both Parties presented the final submissions of their Governments; they also submitted them in writing.

(i) *Separate and dissenting opinions*

(Statute, Art. 57; Rules, Art. 95, para. 2)

In the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*, the Vice-President, three judges and one of the judges *ad hoc* appended dissenting opinions to the Judgment of the Court (see above, p. 179).

In the case concerning *East Timor (Portugal* v. *Australia)*, four judges appended separate opinions to the Judgment of the Court; one judge and one of the judges *ad hoc* appended dissenting opinions (see above, p. 166).

(j) *Reading of the decision of the Court*

(Statute, Art. 58; Rules, Arts. 94 and 95)

The Judgment of the Court on the question of jurisdiction and admissibility which the Court rendered on 15 February 1995 in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*, was read at a public sitting; according to practice, the President omitted certain passages, which he indicated, and summarized.

The Judgment of the Court in the case concerning *East Timor (Portugal* v. *Australia)*, was read by the President at a public sitting, on 30 June 1995, in the same abridged form.

4. Advisory Proceedings

(a) *Request for opinion*

(Statute, Arts. 65 and 66, para. 1; Rules, Art. 103)

In the case concerning the *Legality of the Threat or Use of Nuclear Weapons*, the Court was seised of an urgent request for an advisory opinion from the General Assembly of the United Nations, which was transmitted by the Secretary-General. The Registrar immediately notified the request to all States entitled to appear before the Court.

(b) *Dossier of documents*

(Statute, Art. 65, para. 2; Rules, Art. 104)

In the case concerning *Legality of the Threat or Use of Nuclear Weapons*, the Secretary-General of the United Nations transmitted to the Court a dossier of documents likely to throw light upon the question.

(c) *Special and direct communication*

(Statute, Art. 66, para. 2)

In the case concerning the *Legality of the Threat or Use of Nuclear Weapons*, the Court decided that States entitled to appear before the Court and the United Nations were likely to be able to furnish information on the question raised and that the Court would be prepared to receive written statements from them. The Registrar proceeded to notify those States and the United Nations by special and direct communication.

(d) *Fixing of time-limits*

(Statute, Arts. 48 and 66, paras. 2 and 4, and 68; Rules, Arts. 103, 104 and 105)

In the case concerning the *Legality of the Threat or Use of Nuclear Weapons*, the Court, in view of the urgency of the request, fixed a relatively short time-limit within which written statements might be submitted to it by the States entitled to appear before it and by the United Nations, as well as, by the same Order, the time-limit within which States or organizations having submitted written statements might present written comments on the other written statements.

(e) *Submission of written statements and comments*

(Statute, Art. 66, paras. 2 and 4; Rules, Art. 105)

In the case concerning the *Legality of the Use by a State of Nuclear Weapons in Armed Conflict*, written statements were submitted by 35 States and written comments by 8 States (see above, p. 198).

In the case concerning the *Legality of the Threat or Use of Nuclear Weapons*, written statements were filed by 28 States (see above, p. 199).

(f) *Oral proceedings*

(Statute, Arts. 66 and 68; Rules, Arts. 47, 102 and 105, para. 2 *(b)*)

In the cases concerning the *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* and the *Legality of the Threat or Use of Nuclear Weapons*, the Court decided that oral proceedings, which would cover both requests for advisory opinions, should take place and fixed the date for the opening of those oral proceedings (see above, p. 198).

III. Report and Representation of the Court at the General Assembly

On the occasion of the forty-ninth session of the General Assembly, the Court submitted a report on its activities covering the period from 1 August 1993 to 31 July 1994 (A/49/4). This report was divided into eight parts, relating to the composition, jurisdiction and judicial work of the Court, the role of the Court, visits, administrative questions, and the

Court's publications and documents. The General Assembly took note of the report at its 29th plenary meeting held on 13 October 1994.

On that occasion the President, who, with the Registrar, represented the Court at the forty-ninth session of the General Assembly, addressed that body on the role and functioning of the Court. The text of that address is reproduced in the Appendix to this Chapter (see below, pp. 207-214). Those Members of the Court who were present in New York also attended part of the forty-ninth session of the General Assembly.

A report dealing with the period 1 August 1994 to 31 July 1995 will be submitted on the occasion of the fiftieth session of the General Assembly (A/50/4).

IV. Applications from Private Persons

Private persons frequently apply to the Court for the purpose of obtaining a decision on matters at issue between them and the authorities of their own or of another country. Between 1 August 1994 and 31 July 1995 the Court received approximately 1,200 requests of this kind. The writers were informed that, according to Article 34 of the Statute, "only States may be parties in cases before the Court".

APPENDIX

The Role and Functioning of the Court

At the 29th meeting of the forty-ninth session of the General Assembly, held on 13 October 1994 (see above), the President of the Court, Judge Mohammed Bedjaoui, gave the following address:

"THE PLACE OF THE INTERNATIONAL COURT OF JUSTICE IN THE GENERAL SYSTEM FOR THE MAINTENANCE OF PEACE, AS INSTITUTED BY THE CHARTER OF THE UNITED NATIONS

[Translation]

Mr. President, Mr. Secretary-General, Distinguished Delegates, Ladies and Gentlemen,

It is for me both a pleasure and an honour to take the floor at a meeting presided by H.E. Mr. Amara Essy. May I offer my warmest congratulations to my friend Amara Essy, on the occasion of his brilliant election, which gives me cause for rejoicing on a great many grounds – in the first place, for the United Nations, in the second place for Africa and, lastly, for himself. His little village in the north-eastern Ivory Coast is not alone in the pride it must take in him;

that pride is shared by that other little village which now takes in the whole of our planet, and of which you are all the worthy representatives at this General Assembly.

In keeping with a propitious tradition, now firmly established, the General Assembly is so good as to devote a little of its valuable time to hearing the President of the International Court of Justice on the occasion of its examination of the Court's Annual Report. I am particularly honoured to be addressing you for the first time in this capacity. This privileged contact between the General Assembly and the Court seems to me to be extremely significant on at least two scores. In the first place, the Court, with its headquarters far from New York, needs to maintain with the other principal organs links of consistent and close collaboration, such as to guarantee the successful accomplishment of its and their tasks and, moreover, to ensure the concerted attainment of the aims of the Organization. In addition the Assembly, as the only organ in which all the Member States of the Organization are represented, thereby constitutes a unique forum of expression of the international community that the Court is specifically required to serve.

As can be seen from the report of the Court for 1993-1994, the past year has seen a confirmation of the tendency towards a *renewed interest* in its jurisdiction that has been evident for some time now. The Court currently has ten contentious cases on its list. A new case was brought in May of this year, and concerns the land and maritime boundary between Cameroon and Nigeria. This is an important matter for the Parties and its submission to the Court once again bears witness to the faith of the African continent in international justice. There is just one request for an advisory opinion on the Court's General list at the moment, i.e., the one filed in September 1993 by the World Health Organization, concerning the legality of the use by a State of nuclear weapons in armed conflict. That request, raising as it does some serious issues, has prompted much concern in the international community judging by the unusual number of States – forty or so – which have submitted written statements to us. What is more, the Court's jurisdiction has been further extended: two new declarations – one from Greece and the other from Cameroon – have been deposited with the Secretary-General and a new multilateral treaty providing for the Court's jurisdiction in contentious cases has been notified to the ICJ while, at the same time, various reservations to compromissory clauses in certain multilateral treaties have been withdrawn.

These signs, encouraging as they are, must nevertheless not give us a false impression. The real or potential volume of activities of the Court, expressed in quantitative terms of the number of pending cases, of declarations subscribed or of compromissory clauses in international agreements, does not provide a sufficient answer to *the fundamental question – which is not whether or not the Court is*

extremely busy, but whether it is fully occupying its rightful place in the system for the maintenance of peace, as instituted by the Charter.

A rapid comparison with the Court's predecessor – the Permanent Court of International Justice – would moreover prove somewhat disappointing if confined to the quantitative aspects I have mentioned. The Permanent Court seems, in some respects, to have been more consistently borne in mind by the States of the time. It may for instance be noted that, of the 48 States parties to the Statute of the Court in January 1939, 36 had made a declaration of acceptance of its compulsory jurisdiction. Despite the progress made in recent years, the proportion is much lower in the case of the present Court since there are, to date, only 58 declarations in force – and, what is more, often subject to substantial reservations – for 186 States parties to the Statute of the Court.

Beyond the specific explanations that might be found for these phenomena, it must be admitted that they look singularly paradoxical in view of the role that each of the two Courts was required to play in its distinctive juridical and institutional context. The Permanent Court, which was not even an organ of the League of Nations, belonged to a system which, in the context of the time, essentially aimed to do no more than to establish peace in order to preserve the status quo. The ambitions of the framers of the Charter, on the other hand, were radically different, as their efforts were directed towards the establishment of an entirely new international society, consistently moving towards progress, more just, more egalitarian, more wont to show solidarity, more universal – all of whose members were to engage in an active and collective endeavour to usher in a full and lasting peace. It was therefore to be expected that the International Court of Justice, which was expressly intended, at San Francisco, to be an institution completely distinct from its predecessor, fully integrated into the new Organization and sharing its original concerns and purposes, would from the outset be associated far more closely and meaningfully with world issues than the Permanent Court had been. Such has unfortunately not been the case. The fiftieth anniversary of the United Nations, to be celebrated next year, and that of the Court the year after, will no doubt provide suitable occasions for stock-taking and for a comprehensive, detailed reflection on this paradox. I should nevertheless like, as of now, to offer to the Assembly and, through it, to each of the States of which it is made up, an outline of my thinking on this matter and thereby to associate myself with the efforts already made in various other settings (Decade of International Law, deliberations of the Special Committee of the Charter, Agenda for Peace) with a view to reinforcing the role of the Court.

Article 7 of the Charter gives the Court the status of a principal organ of the United Nations; and Article 92 makes it the principal judicial organ. As such, the Court is clearly an essential part not

just of the machinery for the peaceful settlement of disputes set up by the Charter, but also of the general system for the maintenance of international peace and security that it introduced. No provision of the Charter or of the Statute of the Court sets any limits to its action in this respect. In particular, no provision along the lines of Article 12 of the Charter would, on the face of it, preclude the Court from finding on a dispute being dealt with by the Security Council or by any other organ or agency. Relations between principal organs are, generally speaking, governed by the principles of speciality, equality, the power of each to determine its own jurisdiction, and co-ordination; the whole architecture of the United Nations is based upon the rule of autonomy for each principal organ, none of which is subordinate to any other, and upon the requirement of a concerted pursuit of the common objectives set forth in the Charter. In the absence of any other specific restriction, the Court has always considered the referral of a dispute to more than one principal organ as not, in itself, constituting any impediment to its performance of its duty. The Court is the judicial organ of an international community still based upon a *'juxtaposition of sovereignties'*. It suffices, in principle, for two requirements to be met if the Court is to decide a contentious case; on the one hand, the Parties must have conferred upon it jurisdiction to deal with the case and, on the other, the dispute referred to the Court must be of a legal nature. Article 36 of the Charter recognizes, moreover, that legal disputes should as a general rule be submitted to the Court.

It is precisely this concept of a *'legal dispute'*, as traditionally opposed to that of a *'political dispute'*, which seems to have been misinterpreted and to have constituted one of the reasons for the under-utilization of the Court in contentious cases. Under the influence, no doubt, of considerations inherited from the period prior to the adoption of the Charter, the feeling seems to have long prevailed among States that the Court should only be seised of disputes deemed to be *'exclusively legal'* and ultimately perceived as being relatively marginal or minor disputes. I solemnly appeal to States to review their criteria for the seisin of the Court and at no time to disregard the fact that a referral to the Court of no more than a subsidiary legal aspect of a much broader political dispute may well calm the situation down at once and change the whole face of that dispute.

In reality, when the Court has been seised of legal issues arising in the wider setting of an eminently political dispute, it has never refused for that reason to deal with the case, not even in the event of the use of armed force. Quite the contrary, its jurisprudence clearly points to the decisive contribution it has made on various occasions to the maintenance or restoration of peace between the Parties.

I need only call to mind the Order for the indication of provisional measures that was made on 10 January 1986 by the Chamber of the

Court responsible for dealing with the *Frontier Dispute* between Burkina Faso and Mali. That Order, which was read out in a public sitting on the very day after the Chamber had heard the Parties, at a time when serious incidents had just broken out between their respective armed forces, can serve as an example in many respects. I shall merely note that the Order, which enjoined both Parties strictly to observe the cease-fire, was acted upon while negotiations were still under way in other, essentially regional settings.

I would also, to take a more recent example, refer at this juncture to the Judgment delivered by the Court on 3 February 1994 in the case concerning the *Territorial Dispute* between Libya and Chad. That Judgment put an end to a conflict which, for over 20 years and despite many unavailing attempts to achieve a political settlement, had seriously threatened peace in the region. I wish to pay a special tribute to the Libyan Government and to the Government of Chad which spared no effort to implement the Court's Judgment without delay, and in a spirit of friendly understanding. As early as 4 April 1994, the Parties signed an Agreement 'concerning the practical modalities for the *implementation of the Judgment*' and, on 30 May 1994, they signed a Joint Declaration stating that, under the Agreement, the withdrawal of the Libyan administration and forces from the Aouzou Strip had been effected as of that date.

These two examples suffice to show that the Court is perfectly able, for all the modest material resources at its command, swiftly and effectively to fulfil the function entrusted to it by the Charter as an essential component of the system for the maintenance of peace for which the Charter provides. It suffices, for that purpose, that States refer their disputes to it, thus enabling it to play its rightful role to the full. There is no case with a legal dimension which, *a priori*, lies outside its sphere of competence.

The Court's credibility as a principal organ and as a pre-eminent means of achieving the peaceful settlement of disputes is thus largely in the hands of States. I am deeply convinced that only when the members of the international community have discarded their long-standing prejudices and are, I would venture to say, psychologically ready to have recourse to the Court as naturally as to the political organs, without seeing such an action as necessarily any more serious, conflictual or unfriendly, will the Court be able fully to perform its function. Some States may perhaps tend to have misgivings about judicial settlement on the grounds that, unlike a political settlement, it would be completely outside their control and hence, given the reputed rigidity of legal rules, would always be liable to turn out, in the end, less favourable to themselves. I think I can safely say that such fears are largely groundless. The Court, by the nature of the law it applies, by the role it fulfils and by its composition, is – better than any other judicial institution – able to withstand blind applications of the law. While being sufficiently precise to offer

those who come before it all the legal security to which they legitimately aspire, international law remains at the same time, in essence, a flexible and open law. The Court itself, incidentally, has on several occasions explained that the fact of its deciding in law by no means rules out – quite the contrary – due regard for equity *infra legem* or, in other words, *'that form of equity which constitutes a method of interpretation of the law in force, and is one of its attributes'*. Moreover, as we know, there are specific areas of international law, such as the law of the sea, in which reference is constantly made to *'equitable principles'*. As a body integrated into the system for the maintenance of peace that was established under the Charter, the Court never loses sight of that ultimate objective. It follows that the important approach recently made by the Court to the Parties in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* provides indisputable evidence of the dynamic and responsible judicial policy applied by the Court, and prompted by its constant concern to hear and determine cases in the interest of peace. Furthermore, the composition of the Court as a 'World Court' which must, according to Article 9 of its Statute, give an equitable representation to the main forms of civilization and the principal legal systems of the world, taken together with its working methods and, in particular, the collegiate nature of the Court, *provide firm guarantees of its perfect understanding of the concerns of all States*. The Court is made up of equal, independent and impartial judges; at the Court there is no right of veto and no political patronage. The Court takes its decisions on the basis of law, following a most meticulous examination of each case, without failing to take account of the meta-juridical factors, the expectations of the Parties and the imperative requirements of justice and peace. Indeed, many a smaller or weaker State has obtained through the Court what it would no doubt have been unable to secure by other means.

There can be no doubt that each method of peaceful settlement has its distinctive virtues, not only from an intrinsic point of view but also in the light of each particular situation. Accordingly, while the Charter makes it obligatory for States to settle their differences by peaceful means, it refrains from laying down a specific mode of settlement. That being so, it could clearly be no part of my intention to advocate the substitution of judicial settlement for any other course of action, but only to remove certain ambiguities surrounding it.

The considerations I have just advanced with essential reference to the contentious procedure before the Court apply, *mutatis mutandis*, to the advisory procedure, *the importance of which has long been underestimated*. Only of late has there been a real awareness of the potential impact that the Advisory Opinions of the Court can, whether directly or indirectly, have upon the maintenance of peace.

A relevant legal question put in a timely manner to the Court may, by the answer it elicits, or indeed of itself, prove to be an effective tool of *preventive diplomacy* or contribute, even substantially, to the settlement of a dispute that has already arisen. Many an Advisory Opinion has, in the past, had diplomatic and political implications that were by no means inconsiderable. Thus, while we are all profoundly gratified to have sitting with us in this Assembly the representatives of the young State of Namibia, I am particularly happy and proud to be able to tell you that, through its Advisory Opinions in the *South West Africa* cases, the Court made its contribution to the eagerly awaited accession of that State to independence. There have also been a great many Advisory Opinions that have had a decisive influence upon the progress made by international law since the end of the Second World War. One only has to recall, as an example, the Advisory Opinion – which was revolutionary in the legal context of the time – that the Court handed down in 1949 on the objective international personality of the United Nations and its capacity to claim reparation.

However, relatively little use is made of the system of advisory opinions – perhaps even less than the extent to which States avail themselves of the Court's contentious jurisdiction – if at least one takes due account of the benefits it consistently makes available to international organizations, its flexible implementation and its essentially non-binding character. I am gratified to observe in passing that the General Assembly has been by far the readiest of the organs to refer its queries to the Court. It is to be hoped that a keener perception by the international community, both of the nature of the mission entrusted to the Court and of the potential of its advisory procedure, will soon give a fresh impetus to recourse to that advisory function, so fundamental for an international community aspiring to be governed by the primacy of law.

The essential thing for the immediate future of the Court is therefore, as I see it, that in the seats of government there should be an assertion of the political will to take a fresh look at the Court and to view it more realistically. This is what seems to me to be the very modest price that has to be paid if the Court is to resume the place in world affairs that the framers of the Charter originally intended it to occupy. I do not think I need dwell upon the few criticisms traditionally levelled at the Court, and which may have made some governments more hesitant to approach it, as their groundlessness is nowadays widely acknowledged. One such criticism is the purported slowness of proceedings before the Court. It is true that the settlement of a case by the Court takes two years on average. There are nevertheless limits to what the Court can do when sovereign States submitting important matters to it seek, quite understandably, to give the best chance to their arguments by asking for permission to submit several written pleadings, or to be given sufficient time in

which to put their case, first in writing and later orally. In fact, once the Court begins its deliberation, things generally move very fast since only a few months – or even weeks – elapse between the end of the oral proceedings and the delivery of the Court's Judgment. This Assembly will certainly recall the speed with which the Court took action in response to its request for an Advisory Opinion concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*. In that case the public hearings ended on 12 April 1988 and the Advisory Opinion of the Court – a somewhat long and complex one – was rendered as early as 26 April 1988, just 14 days later. Expeditiousness, as a prerequisite for the sound administration of justice, is therefore essentially dependent on the will not of the Court but of those that seise it.

The second criticism to which I was referring concerns the financial cost of proceedings before the Court. For the Member States of the United Nations, which contribute to its budget, access to the Court is free of charge. The cornerstone of any judicial proceedings is the cardinal principle of equality of the parties; it is this principle that underlies all the procedural provisions of the Court's Statute and Rules. We nevertheless all understand that this *'formal'* equality, crucial though it is, does not suffice to allay the misgivings of the least privileged States. True justice requires that all should be equal before the Court, not just *de jure* but also *de facto*. For this reason, I must pay tribute to the Secretary-General's noteworthy initiative that resulted in the establishment, in 1989, of a Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, designed to help those States that cannot afford the expense of referring a dispute to the Court. May the generous contributors to the Fund be warmly thanked in the name of international justice; their exemplary gesture bears a heartening witness to a growing solidarity within the international community. I venture to invite all those who can do so to join forces with them just as eagerly, in order to increase the resources of the Fund; and I venture at the same time to invite all those in need of assistance from the Fund to take full advantage of its resources. Such a system of judicial co-operative action would, if confirmed and extended, be an unquestionable sign of great maturity in the community of States.

International relations have been marked, in recent years, by upheavals as numerous and significant as they have been unexpected. It is essential for the United Nations, if it wishes to pursue its noble and difficult mission, to show itself capable of adapting swiftly and effectively to new circumstances. Various ideas have already been advanced in this respect. Needless to say, they will have to include the work of the Court. States, traditionally qualified as *'primary'* or *'necessary'* subjects of the international legal order, which are today alone in being able to avail themselves of the Court's contentious

jurisdiction, *are no longer*, as in the 1920s, *the only protagonists in international relations* or the only interlocutors where peace-keeping is concerned. International affairs constantly demonstrate that an ever greater allowance has also to be made, at this level, for other entities. Likewise, access to the Court's advisory jurisdiction may henceforth appear unduly restricted if one thinks of the enormous potential of the advisory function and of the demand that exists. One might envisage the possibility that not only other organs of the Organization – in particular, the Secretary-General – might be able to request advisory opinions of the Court, but also, as appropriate, that that option might be extended to third organizations not belonging to the United Nations system but which make an eminent contribution to the maintenance of peace at *regional* level, for instance. These are all questions of great significance for the future of the Court and for world peace; they need to be examined very closely in the near future, and I hope one day to be able to take them up again with you.

I thank you."

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On 24 October 1994 President Bedjaoui further gave the following address to the Sixth Committee of the General Assembly:

"THE INTERNATIONAL ORGANIZATIONS BEFORE THE INTERNATIONAL COURT OF JUSTICE: APPRAISAL AND FUTURE PROSPECTS

[Translation]

Your Excellencies, Ladies and Gentlemen,

I am unable to forego the great pleasure of addressing, at the outset, on my own behalf and on that of the Court, my warmest congratulations to the Chairman of this prestigious Committee for his brilliantly successful election to that office. We all know the remarkable career of Ambassador George Lamptey. I have personally learned a great deal from the exemplary manner in which he has served his country and in which he is now serving the international community. He has my best wishes for every success in his exalted mission.

I salute those members of the international community of jurists who are with us today, and feel honoured to be able to address them.

It is an exceptional privilege to be able to take the floor before the Sixth Committee. May I ask you to excuse me for addressing you from the distant confines of this huge hall, as if I were telling you secrets from behind your backs? The hazards of a pungent protocol have doubtless contrived this situation in which the

President of a principal organ has to address you in a voice redolent of the distant mists of northern Europe, like a voice from beyond the grave.

I would now like to share with you some of my thoughts on the place of the international organizations before the Court, both in advisory and contentious proceedings, and beginning in each case by proceeding to a brief appraisal of the current situation and the background to it, before pointing to some prospects for the future.

I. Outline Plan: Developments in International Relations, the Consequent Adjustments at the United Nations and the Access of International Organizations to the Court

1. Developments in International Relations

1. The drastic changes undergone by international relations since the end of the previous decade have inevitably affected, and continue to affect, the life of the United Nations – just as the Cold War did in its time. Such events need to be studied with the greatest care, in all their complexity, if one is to attempt to answer the serious questions that they raise.

2. Adjustments within the United Nations

2. The particularly difficult mission that the Charter assigns to the United Nations has no real chance of successful accomplishment unless the Organization has at its disposal instruments that are appropriate, given the state of international relations. *One accordingly needs to think about the adjustments that may have to be made to the machinery established by the Charter*, so as to enable the United Nations to confront, with maximum efficiency, the new challenges of this end of the twentieth century.

3. The Role of the Court and Access to It

3. The Court occupies a unique place in the institutional edifice set up by the Charter. It is a principal organ of the United Nations; it is its principal judicial organ and, as such, possesses what one might call the *'principal responsibility' for the settlement of disputes of a legal nature*.

4. One of the questions which undoubtedly merits our attention within the framework of the approach adopted here, is that of *access* to the Court. The maintenance of peace through law implies above all a pacification of the relations between the different protagonists of international life, by hearing and determining cases, either within the framework of a specific dispute and at the request of one or the other of the parties to that dispute, or in a manner unrelated to any litigation, at the request of any one of those protagonists acting, to some extent, in the interest of all.

5. *For a long time, the State was the only protagonist in interna-*

tional relations; it is alone in being able to avail itself of the Court's contentious jurisdiction. International organizations, on the other hand, can avail themselves of its advisory jurisdiction. Today, however, the State is no longer the only protagonist of international relations. A certain number of situations which constitute a threat to peace will, from now on, fall outside the accepted framework of State control. One has necessarily to deal with what seem frequently to be either infra-State entities such as a territorial fragment of the State, or supra-State entities such as an international organization. The vocation of *international organizations* to be full subjects of the international legal order has not been in doubt since the Advisory Opinion of the Court in the case concerning *Reparation for Injuries Suffered in the Service of the United Nations.*

4. The Court and the International Organizations

6. My intention today is, on the one hand, to attempt a brief evaluation of the role recognized by the existing law as being that of international organizations before the Court and, on the other hand, to present for your consideration an outline of the measures that might be envisaged as a matter of legislative policy, with a view to enlarging that role and, by so doing, assisting the Court better to confront the challenges of the twenty-first century.

II. Advisory Proceedings before the International Court of Justice

1. The Precedents

7. Article 14 of the Covenant of the League of Nations provided that the future Permanent Court, for which the Council of the League had been asked to draw up the Statute, would give '*an advisory opinion upon any dispute or question* referred to it by the *Council* or by the *Assembly*'.

It was immediately pointed out by the Committee of Jurists entrusted with the task of drawing up a preliminary draft statute of the future Court that, within that framework, it would not be called upon to pass judgment but *only* to give an *opinion* – even though that opinion would have the *same moral value* as that attached to the Judgments of the Court.

8. Lastly, *no provision relating to advisory opinions* was included in the original Statute of the PCIJ, as the Assembly of the League of Nations considered that the distinction drawn in Article 14 of the Covenant, between *'disputes'* and *'questions'* on which the Court could be asked to render an opinion, seemed to be 'lacking in clearness' and such as to 'give rise to practical difficulties'.

The Permanent Court itself adopted, in its Rules of Court, certain provisions relating to *ad hoc* proceedings that were applicable to the rendering of advisory opinions.

9. It should above all be noted that *access* to the advisory proceed-

ings contemplated by the Covenant was somewhat restricted (as only the Council and the Assembly could ask for opinions). On the other hand, the Rules of Court considerably increased the possibilities of *participation* in the proceedings *stricto sensu*, as it authorized States Members of the League of Nations and 'international organizations' to present written and/or oral statements on the question put to the Court.

10. During the revision of the Statute of the Permanent Court that was effected in 1929 (but which only came into force in 1936), it was thought to be advisable to *transfer into the Statute the substance of those provisions of the Rules of Court that related to advisory proceedings*.

11. In practice, the Permanent Court was only *seised with requests for opinions emanating from the Council*, which frequently acted *at the instigation of States* which sought, for one reason or another, to submit indirectly to the Court a dispute or question on which they wanted its opinion, without having to institute contentious proceedings. In cases in which the absence of a binding decision seemed to the States concerned to constitute a drawback, *those States were known to undertake in advance*, either during the deliberations of the Council that preceded the adoption of the request to the Court, or alternatively by means of a treaty, *to consider the advisory opinion of the Court as having binding force as between themselves*.

12. However the Court, through the intermediary of the Council of the League of Nations, was also asked to render advisory opinions on important questions concerning the operation of other organizations. In that manner, it handed down six advisory opinions relating directly to the operation of the International Labour Organisation, and likewise gave the benefit of its opinion to the Mixed Commission for the Exchange of Greek and Turkish Populations, the Greco-Bulgarian Mixed Emigration Commission and the European Commission of the Danube.

2. The Situation at Present

(a) *The Charter, the Statute of the Court and access to the system of advisory opinions*

13. The Informal Inter-Allied Committee that was brought together in London in 1943, by the British Government, discussed the question of *whether the new Court should continue to have the power to render advisory opinions*. Some of its members considered that the exercise of advisory jurisdiction was not compatible with the judicial function, which consisted exclusively of dispute settlement. Other Committee members took the contrary view that, given the eminent services rendered by the advisory system at the time of the Permanent Court, that system should not only be maintained, but even extended. This seemed to them to be essential, not only from the standpoint of the satisfactory operation of international organization but from

that of dispute settlement, which is why it was even suggested that it be made available to States. The Committee finally came round to that point of view.

14. The proposals relating to the establishment of a general international organization, that were published at Dumbarton Oaks in October 1944, provided only that the *Security Council would be entitled* to request advisory opinions of the future Court on legal questions relating to disputes that had not been submitted to it, as contentious cases, by the States directly concerned.

15. The Washington Committee of Jurists considered that it was for the Charter to determine those organs which should be authorized to ask the Court for advisory opinions. It suggested, however, that such an authorization that should be given, not only to the *Security Council, but also to the General Assembly, while access* to that advisory system *should be prohibited to other international organizations* or *a fortiori* to States.

16. In San Francisco, Committee IV/1 took up the idea of conferring upon the General Assembly and Security Council the right to request advisory opinions of the Court, on any legal question. With respect to third organizations, the Commission showed itself both readier than the Committee of Jurists to accept that suggestion but, at the same time, was reluctant to give them a general access to the advisory system. It decided, on the one hand, to insert into Article 65 of the Statute a provision that would refer to the Charter in the matter of determining the organs or institutions that would be authorized to request an advisory opinion of the Court and, on the other hand, suggested, on the basis of a proposal made by the United Kingdom to Sub-Committee II/2/A, that *the Charter should leave it to the General Assembly to authorize any United Nations organ and any specialized agency* in a relationship with it to ask the Court for an advisory opinion on a legal question arising within the scope of its activities.

This gave rise to what is now Article 96 of the Charter, which provides that:

'*Article 96*

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.'

For its part, Article 65, paragraph 1, of the Statute reads as follows:

'*Article 65*

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in

accordance with the Charter of the United Nations to make such a request.'

17. In conclusion, *access to the advisory procedure is more readily available under these texts than it was under Article 14 of the Covenant of the League of Nations*, as all the organs of the United Nations and all the organizations of the United Nations system are thereby *empowered* to request advisory opinions of the Court. For an organization to be effectively admitted into the system, it only needs the authorization of the General Assembly, and the practice seems to have shown that such an authorization, when formally requested, has never been refused. *That access is nonetheless somewhat limited, from at least two points of view.* In the first place the organs and agencies in question can only submit to the Court questions that arise within the scope of their specific activities; which however seems fairly logical if the function of the opinion rendered by the Court has to be to contribute to the sound operation of the entities in question. Moreover, in the second place, the advisory procedure is not available to all those international organizations that do not fall within the scope of the definition given in the Charter. It is true, however, that most of the major organizations with a world-wide membership are covered by that definition and that, out of those organizations which are not so covered and which might, at present, be interested (in particular, the regional organizations, to which the Charter recognizes an important role in the maintenance of peace), very few were in existence in 1945.

(b) *The organizations and agencies authorized to ask for advisory opinions*

18. The organs and agencies which can, under present circumstances, request an advisory opinion of the Court are 22 in number. In addition to the General Assembly and the Security Council, four United Nations organs have been authorized to do so by resolutions of the General Assembly. In addition, 16 specialized agencies or organizations with a similar status are currently empowered to submit requests for advisory opinions by virtue of agreements concerning their relationship with the United Nations, as the General Assembly resolutions approving the agreements defining the terms of that relationship at the same time confer the authorization referred to in Article 96, paragraph 2, of the Charter. It is accordingly undeniable that, *at least from a formal standpoint, international organizations – in the broad sense of the term – are now a great deal more present in the advisory system than they were in the past*, which must be seen as a satisfactory development.

19. *However, one cannot fail to be mindful of a certain number of factual elements which serve to relativize that optimistic conclusion to some extent.* It must be pointed out that, in the course of the past

48 years, the Court has only rendered 21 advisory opinions – for the most part at the request of the General Assembly – and that only three specialized agencies have, up to the present, availed themselves of their faculty to ask for advisory opinions. These were WHO (on two occasions), Unesco and IMO.

(c) *The object of requests for opinions*

20. According to both Article 96 of the Charter and Article 65 of the Statute, the object of the requests for advisory opinion that may be addressed to the Court is defined in a manner that is extensive while comprising no more than one category, in that such a request may only relate to *'legal questions'*. Those texts have not maintained the distinction between 'disputes' and 'questions' that was drawn in Article 14 of the Covenant of the League of Nations. The overall equivalence of the two forms of words is, however, scarcely in doubt. Moreover, it must be taken for granted that a *'legal question' may be put to the Court concerning a nascent dispute or one that has already come into being, whether it be between two or more States or between States and international organizations.* Article 68 of the Statute and Article 102 of the Rules of Court bear this out. According to those provisions, the present *Court* is bound, like its predecessor, *to be guided, in the exercise of its advisory function, by those provisions of the Statute and Rules of Court which apply in contentious cases* 'to the extent to which it recognizes them to be applicable'. What is more, Article 102, paragraph 2, of the Rules of Court provides that it 'shall above all consider whether the request for the advisory opinion relates to a legal question actually pending between two or more States'.

21. The practice has, on a number of occasions, brought into prominence the *'calming effect' of advisory proceedings* when, for whatever reasons, the legal aspects of the dispute cannot be directly submitted to the Court as a contentious case. This eminent function of the advisory system should not, however, lead us to forget the doubtless discreet but no less effective contribution to the maintenance of peace that is made by that same advisory system, when it contributes to the *proper functioning of international organizations and the progress of international law.*

(d) *Participation in advisory proceedings*

22. Although *access* to the system of advisory opinions seems to be relatively limited at the present time, and although it is, strictly speaking, an expansion of the system contemplated by the texts that governed the activity of the Permanent Court, on the other hand, *participation* in that system is still to a large extent open, as at that earlier time.

Indeed, Article 66, paragraph 2, of the Statute authorizes 'any State entitled to appear before the Court or international organization consid-

ered by the Court . . . as likely to be able to furnish information on the question' to take part in the written and/or oral proceedings. Paragraph 3 enables the Court selectively to authorize the participation of any State entitled to appear before it, at that State's request.

23. *Advisory proceedings are likewise a great deal more open to participation than they are open to access by international organizations.* Article 66, paragraph 2, of the Statute provides that 'any . . . international organization' may be called upon to present written and/or oral statements. The question of whether that expression may also refer to non-governmental organizations is still a subject of controversy. On the other hand, there is no doubt that it covers any organization composed of States, and not only the specialized agencies. The practice show that, on a number of occasions, regional inter-governmental organizations such as the OAS or the OAU have been permitted to take part in advisory proceedings.

(e) *The effect of the advisory opinions of the Court*

24. The opinions of the International Court of Justice, like those of its predecessor, are *essentially advisory, i.e., without binding effect.* Each requesting organ or institution is required to decide, by the means available to it, upon the way in which the opinion is to be followed up. The Court itself has regularly laid stress upon the non-binding nature of the advisory opinions that it renders, even though several of its members have emphasized the high legal value and significant moral authority of those same opinions.

25. As is known, at the time of the Permanent Court of International Justice, States could commit themselves in advance, during the debates of the Council of the League of Nations relating to the adoption of a request for advisory opinion, to complying with the advisory opinion to be handed down. That *practice* has been *developed under the Statute of the present Court*, albeit in a number of different forms. It now aims to remedy the *incapacity of international organizations* to bring contentious cases before the Court and takes the form of *quasi-compromissory clauses inserted into treaties between States and international organizations, according to which, in the event of a dispute between a State and the organization, an advisory opinion is to be requested of the Court, to which the parties agree to give decisive effect.* Among the best-known examples of a convention of this kind, I would refer to the Convention on the Privileges and Immunities of the United Nations (Sec. 30) and the Headquarters Agreement between the United Nations and the United States of America (Sec. 21). The Court has had occasion, in recent advisory cases, to analyse the relevant provisions of those instruments. I would also, to take an example closer to the present time, refer to the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations (Art. 66).

26. This fairly convenient way of solving disputes between States and international organizations, which is frequently referred to as the rendering of a *'binding advisory opinion'*, has of course something in common with a contentious case but nonetheless remains *completely distinct from the contentious procedure* laid down by the Statute of the Court. In particular, one is still thinking in terms of advisory opinions to which are exclusively applicable those provisions of the Statute that relate to the advisory procedure, with respect to the making of the request (which has to be presented by an organ or an agency duly authorized by the Charter so to do), with respect to the actual procedure (and, more particularly, the modalities of participation of States) and the nature of the final decision (an advisory opinion does not constitute *res judicata* and is not covered either by Article 59 of the Statute or by Article 94 of the Charter). It follows that, while such advisory opinions *'impose an obligation'* they do not do so *per se*, but *solely by virtue of a collateral undertaking* which has nothing to do with the Court's exercise of its advisory jurisdiction.

27. The practice of 'binding opinions' found a particular application and an incipient institutionalization in the provisions of the Statute of the ILO Administrative Tribunal and the Statute of the United Nations Administrative Tribunal, which provide for a procedure whereby the Court can review the judgments of those Tribunals in certain cases in which their validity is called into question. The Court has been seised of requests for advisory opinions within the framework of that procedure on four different occasions (once by the Executive Council of Unesco and on three occasions by the Committee on Applications for Review of Administrative Tribunal Judgments).

3. Towards an Extension of Access to the Advisory Procedure?

28. If, as now seems advisable, it is thought as well to associate the international organizations more closely with judicial dispute settlement, one has in particular to ask oneself about the *possibilities of extending access to the advisory procedure, to their advantage*. At this early stage, one can let one's thoughts run on certain innovations which are worthy of some brief comments.

For the past few years, the *question of access to the advisory procedure by the United Nations Secretary-General* has once again been on the agenda: it has been raised on a number of occasions and in different contexts. It is not for the President of the Court to involve himself in a discussion which does have a certain political dimension, and I shall accordingly confine myself to some very general references to the two orders of problems raised by that question.

The first is essentially a problem of principle. Although the Secretariat is the only principal organ of the United Nations that cannot, as matters now stand, avail itself of the advisory jurisdiction

of the Court, it is also the only one that is not composed of States. This has led to concerns in certain quarters that there might be an absence of the kind of control that is exercised in inter-governmental bodies with respect to the decision to seise the Court and the formulation of the question to be put to it, together with the absence of the kind of political support that can be given to requests submitted after a majority has voted in favour of such action.

The second series of problems that arises relates to the concrete implementation of the authorization in principle that would be given to the Secretary-General to enable him to ask for advisory opinions. Should that authorization be permanent? Should it cover the whole scope of the Secretary-General's activities? Should its implementation be subject to the agreement of the parties in the case of a request relating to a dispute in a process of crystallization or that has already crystallized, etc.?

The advantages of such an authorization would of course be that *it would considerably facilitate the seisin of the Court by making it both more flexible and, where necessary, more rapid*, as the Secretary-General would no longer have to address himself to third organs and, in certain cases, that it would also make it possible to avoid the pitfalls of political situations that can be particularly burdensome, if not totally inhibiting. Some solutions can certainly be found to enable the international community to take advantage of the benefits of such an expanded access, while limiting the risks involved.

29. One could also imagine an *extension of access to the Court to those organizations that are not a part of the United Nations system* but whose access to the system of advisory opinions could turn out to be extremely advantageous, whether within the framework of their external relations or within that of their internal operation, and whether or not they have their own judicial system (it might, for example, be very useful for an 'internal' tribunal of a given organization to be able to ask the Court certain interlocutory questions, in the form of requests for advisory opinions).

III. Contentious Proceedings before the International Court of Justice

1. The Precedents

30. Article 14 of the Covenant of the League of Nations provided that the future Court would '*determine any dispute of an international character which the parties thereto submit to it*'.

31. The Council and the Assembly of the League of Nations considered that the League as such, or its organs, should not be permitted to present submissions to the Court, given the 'essential principle . . . of the respective independence of the judicial powers represented by the Court and of the international power represented by the Council of the League of Nations'.

32. However, at the request of the Director of the International

Labour Office, the Assembly added to Article 26 of its Statute a paragraph worded as follows:

> 'In Labour cases, the International Office shall be at liberty to furnish the Court with all relevant information, and for this purpose the Director of that Office shall receive copies of all the written proceedings.'

That paragraph which, without authorizing ILO to be a party to a case before the Court, nonetheless permitted it to be *associated to a certain extent with contentious proceedings* once instituted, *does not seem ever to have been applied.*

2. The Situation at Present

(a) *The Statute of the Court*

33. In 1945, those involved in drafting the Statute of the present Court had the intention, with respect to the matter of access to the Court, of keeping to the *accepted approach adopted in 1920. Only States*, the traditional subjects of the international legal order, were to have full standing before the Court and, consequently, to be authorized to participate in contentious proceedings before the Court as originating parties or as interveners. The general rule according to which 'only States may be parties in cases before the Court' was, then, maintained in Article 34 of the Statute in the same way as was maintained, in Articles 62 and 63 (on intervention), the exclusive reference to States which had already been made in the corresponding provisions of the Statutes of the Permanent Court.

34. However, during the inter-war period, international organizations had increased in number and their emergence as subjects of international law had progressively been asserted.

The Washington Committee of Jurists accordingly took the view *that it could not completely ignore the increasing role played by the organizations* in international life. For that reason, it accepted a proposal by the American delegation relating to the extension to all the organizations and to all cases of the rule contained in Article 26 of the Statute of the Permanent Court, according to which the International Labour Office was, as I have just indicated, at liberty to furnish the Court with all information relevant to labour cases. The enlarged rule can now be found in Article 34, paragraph 2, of the Statute, worded as follows:

> '2. The Court, subject to and in conformity with its Rules, *may request of public international organizations information relevant to cases before it, and shall receive such information* presented by such organizations on their own initiative.' (Emphasis added.)

35. In its report, the Committee of Jurists explained that it had made a point of including that provision – that certain delegations took to relate to procedure rather than to jurisdiction – in the future

Article 34 in order to 'emphasize its importance'. Article 34, paragraph 3, of the Statute was added in San Francisco in response to a proposal by the United Kingdom delegation. It extends somewhat further the limited *locus standi* offered to international organizations when the Court is dealing with contentious cases, as it makes it incumbent upon the Registrar to send them various notifications and communications which are supposed to *enable them to take part to a certain extent in such cases – without, however, being parties to them* – whenever a case of that kind relates to an international convention of particular significance to themselves:

> '3. Whenever *the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder* is in question in a case before the Court, the *Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.*' (Emphasis added.)

36. It should be pointed out that, while Article 34 of the Statute only expressly mentions the 'public international organizations' or, in other words, although its provisions only cover the intergovernmental organizations, it operates no selection among those organizations and accordingly is not aimed *exclusively at organizations of the United Nations system*. I would add that no more than a few of the latter organizations are obliged, by virtue of their constituent instrument, to provide the Court with all such information as it may request of them under paragraph 2.

(b) *The Rules of Court*

37. Various provisions of the successive versions of the Rules of Court have served to implement Article 34, paragraphs 2 and 3, of the Statute.

Article 69 of the current version of the Rules of Court, includes four paragraphs. The first two relate to the implementation of Article 34, paragraph 2, of the Statute and refer respectively to cases in which a request for information is addressed by the Court to an organization or in which an organization might communicate such information to the Court *proprio motu*. The third paragraph provides for the 'participation' of organizations in the circumstances contemplated by Article 34, paragraph 3, of the Statute. Lastly, paragraph 4 confirms that the term 'public international organization' used in the Statute denotes an 'international organization of States'.

(c) *The practice of the Court*

38. Those provisions constitute *the only formal link between the international organizations and the contentious procedure*, and at the same time define, in existing law, *the extreme limit to the possibility of associating the organizations in that procedure, given the options*

taken in 1945. They have been very little applied in practice – which perhaps gives cause for regret. The international organizations, and their members, are accordingly being deprived themselves of an instrument which, at one and the same time, safeguards their own interests and contributes to the international justice, and whose potentialities should not be underestimated.

3. International Organizations as Parties to Contentious Cases before the Court?

(a) *The 'external' litigation of international organizations*

39. The organizations, *as subjects distinct from their member States, develop a network of legal relations with third parties*, which in many ways resemble those entered into by States. In order to convince oneself of this fact one only has to consider the very great similarity which exists between, on the one hand, the provisions of the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations and, on the other, those of its predecessor, the 1969 Vienna Convention on the Law of Treaties between States. On that account, *international organizations can at any time be parties to legal disputes*. As they, unlike States, have no possibility of submitting those disputes to the Court (other than by the – artificial – means of a collective submission by all their member States, which would seem to be a rather uncertain course of action in the case of organizations with a world-wide membership), they *have no recourse other than to* ad hoc *arbitration* if no political settlement can be achieved. Like States they can, to that end, conclude a *compromise* or accept a compromissory clause inserted into a bilateral or multilateral international convention. There are various examples of such conventions. *In practice, recourse to arbitration by international organizations is rather a rare occurrence*. It is well known that, *while* ad hoc *arbitration* has the advantage of flexibility, it also has a number of disadvantages, including the fact that the decision-making organ has no permanent constitution, no permanent registry, no rules of procedure of its own and defined in advance, no easily identifiable and homogeneous practice and jurisprudence. *As for the system of 'binding' advisory opinions*, it is *not without its difficulties either*, as I have already indicated. Those difficulties relate both to the hazards involved in seising the Court – given the always uncertain character of the voting which has to take place within the organization concerned – and the nature of the Court's decision which, regardless of the collateral undertakings entered into, still has the status of an advisory opinion.

40. This is why, *very soon after the entry into force of the Statute of the Court, there were calls for it to be modified* and for international organizations to be given a *locus standi in judicio*. As a result, *as early as 1954, the Institute of International Law* adopted a resolution stating that:

'it is a matter of urgency to widen the terms of Article 34 of the Statute so as to grant access to the Court to international organizations of States of which at least a majority are members of the United Nations or parties to the Statute of the Court'.

That resolution did not, at the time, achieve the desired effect: there was no follow-up either to the resolution or to similar suggestions made by various authors.

41. It is true that, while there seems to be no doubt that the principle is valid, its implementation raises some *delicate problems*. There can be no access to the Court if the Court lacks *jurisdiction ratione personae* and, to enable an organization to be a party to a dispute before the Court, there would have to be amendments to Article 34 of the Statute, to Article 35 (together with the Security Council resolution of 15 October 1946) and to Article 93 of the Charter, so as to put the international organizations in a position either to become parties to the Statute by the effect of a General Assembly resolution, or to have access to the Court by adhering to the conditions laid down to that end by the Security Council. With respect to the *jurisdiction ratione materiae* of the Court, one needs to ask oneself whether it would be possible and advisable to authorize international organizations to make a declaration under the *optional clause of acceptance of the compulsory jurisdiction of the Court*. These are questions which give food for thought, both from the standpoint of the implied adjustments of certain aspects of international relations as well as from the standpoint of the organization and functioning not only of the Court, but also of the international organizations concerned.

(b) *Litigation 'internal' to international organizations*

42. On this latter point, I would like to add a few words. I have hitherto referred exclusively to the measures that might be envisaged in order to remedy the current deficiencies of the management of external litigation involving international organizations. However, *a number of those organizations can likewise experience some more or less significant internal litigation* which, given their composition, cannot be completely brought under regulations along the lines of those applied to national constitutional or administrative litigation. Only a very few organizations of 'integration', like the European Union, have appropriate machinery to deal with such litigation. The Luxembourg Court can deal with a whole range of very elaborate recourse procedures, including an action to set aside acts of the principal organs of the Union (Treaty on the European Union, Art. 173) and an action for the establishment of a failure of those organs to take action (*ibid.*, Art. 175).

43. *The Charter does not provide for any legality-testing of this kind* in relation to acts of United Nations organs. It is only in the context of a *dispute between two States* that the Court can be asked

to consider the conformity of an act of those organs with 'United Nations Law' (in the broad sense of the term). However, in accordance with *Article 59 of the Statute* of the Court, the decision that the Court might hand down under such circumstances would only be binding between the parties, and accordingly be without any general purport (status of *res judicata*). In the same way, if there is within *an organ or agency authorized to ask for advisory opinions* of the Court, a majority in favour of requesting such an opinion on the legality of certain acts taken within the organization – as has already been the case in the past (see for example *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization; Certain Expenses of the United Nations*) – the Court can only answer the question put to it, admittedly with all the legal and moral weight that attaches to its decisions, but without its reply having any binding effect.

44. One must, however, point out that, as matters now stand, *the Court can exercise, on an exceptional basis and by virtue of instruments other than the Charter, a control that resembles a legality-checking of the decisions of certain international organs*. I am referring, on the one hand, to the cases in which the Court renders a 'binding' advisory opinion after engaging in a *procedure of review* of a judgment of the United Nations Administrative Tribunal or the ILO Administrative Tribunal and, on the other, to those in which it hands down a *judgment* implying certain *effects erga omnes* by virtue of Articles 84 and 86 of the Convention on International Civil Aviation (appeal against certain decisions of the ICAO Council in the case of a disagreement as to the interpretation or application of the Chicago Convention; cf. the case concerning the *Appeal Relating to the Jurisdiction of the ICAO Council*) or Articles 29, 31 and 32 of the ILO Constitution (appeal against decisions or recommendations of the Commission of Enquiry set up to deal with a complaint by one member against another on account of a failure to comply with an international labour convention).

45. The decision to endow an organization with machinery for reviewing internal legality is obviously a political decision that the member States may be led to take, more particularly on account of their perception of the role of that organization, its nature, its degree of integration and effective requirements. The Court could exercise such a function – whether to the benefit of the United Nations or that of any other organization which does not have its own system of review – provided that the necessary amendments were made to the Charter and the Statute.

IV. Conclusion

46. All these questions, which are not necessarily new but which, at the present time, are undoubtedly being raised with a new degree of acuteness and in a new context, call for a *further reflection that*

will have to be, at one and the same time, original, comprehensive and detailed. Such an effort of reflection, which will of course take time, should however be carried out without undue delay. The *Decade of International Law* constitutes a particularly propitious framework for such an effort. It is to be hoped that the *50th anniversary of the United Nations, in 1955, and that of the Court, in 1996*, will provide a stimulus for that reflection which will guarantee its successful conclusion.

I thank you."

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On 27 October 1994 President Bedjaoui gave the following address to the Asian-African Legal Consultative Committee meeting in New York:

[Translation]

"CERTAIN PROBLEMS RELATING TO COMPLIANCE WITH THE DECISIONS OF THE INTERNATIONAL COURT OF JUSTICE

Mr. Secretary-General, Your Excellencies, Ladies and Gentlemen,

I feel privileged to be able to address this Committee, and am grateful to you for giving me this opportunity to do so. The Asian-African Legal Consultative Committee has, during its many years of existence, rendered eminent services to the campaign to promote the rule of law and the triumph of justice in international relations, particularly in relations between the developed and developing countries. I pay tribute to that productive endeavour.

I quite naturally extend that tribute to Mr. Secretary-General Tang Chengyuan, as well as Mr. Bhagwat-Singh, the Permanent Observer to the United Nations. The devotion to duty of both these gentlemen gives cause for both satisfaction and gratitude.

Mr. Secretary-General, you will from now on be working in a new setting, that of your new Headquarters in Doha, thanks to the generous hospitality of the State of Qatar. My wishes for complete success go with you as you enter into your functions in that new setting.

Ladies and Gentlemen,

I would now like to call to mind, before this Committee, certain aspects of the problem of compliance with the decisions of the International Court of Justice.

This is a subject of *capital* importance – but one that is, paradoxically enough, *disregarded* or to some extent ignored or played down by legal writers. It is obviously of capital importance, as what would be the point of using up so much energy and resources in order to decide a dispute between States, if the final decision were not complied with? Why should one glorify the virtues of the peaceful settlement of disputes by judicial means if, ultimately, the decisions of international justice are not implemented? All the achievements

patiently attained over the decades for the promotion of international justice and peace through law would thereby be brought to ruin.

This is, then, a capital subject but also one that has been neglected. The reason is that many authors – and not the least of them – consider that compliance with the decisions of the International Court of Justice does not cause any problem as a rule. They draw that optimistic conclusion from the consensual nature of international justice which is, indeed, based fundamentally upon the consent of States. This means, according to those authors, that it is difficult to see how a State, naturally bound by the general principle of good faith, would accept the jurisdiction of the Court and subsequently reject its judgment.

In fact the subject is neglected not only by legal writers, but also by the Statute of the International Court of Justice. However, problems do arise. We shall be considering some of them here.

It is as well to begin by looking at the *nature* of the decisions (in the most general sense) that are habitually reached by the Court, which hands down judgments, advisory opinions and orders.

Turning in the first place to the *advisory opinions*, the problem of compliance with them does not actually arise in principle since, as their name indicates, they are merely 'opinions' which are not binding upon the organ requesting them of the Court. It will however be noted that there is a category of advisory opinions that are described by the very parties requesting them as having 'binding' or 'decisive' force with respect to them or as between them. However, that binding force is not inherent in the nature of the opinion itself, but rather results from a collateral undertaking entered into by the parties, independently and in advance of their request to the Court. Such an undertaking is included in certain Conventions, such as the Headquarters Agreement between the United Nations and the United States (Sec. 21) or the Convention on the Privileges and Immunities of the United Nations (Sec. 30), which both make provision for recourse to the advisory procedure in the event of a dispute with the host State or any State, according to the case, and which describe the opinion to be handed down as having binding force.

The 'binding' character of an advisory opinion of the Court may also result, not from a Convention previously concluded, but from the resolution to be adopted by the organ requesting the opinion after the Court's opinion has been notified to it. This will then raise, after the event, the problem of the 'binding' character of the resolution itself, passed under those circumstances.

However, even though the advisory opinion has of itself a considerable moral value and while the Court is not at all indifferent to the question of its being given effect, it is important to bear in mind its essential nature of a mere opinion, given that everything that might give it binding force is derived from elements and intentions *external* to its true nature.

This means that we need dwell no further upon the question of the compliance with advisory opinions. It only remains for us to consider the matter of compliance with the *judgments* and *orders* of the Court. There are two essential differences between those judgments and orders. On the one hand, in accordance with Article 59 of the Statute of the Court, its judgments *constitute res judicata* and, on the other hand, in accordance with Article 60 of that same Statute, they are *final*, subject to proceedings for interpretation and revision that are likewise laid down by the Statute. Orders do not constitute *res judicata* and may, in principle, always be modified by the Court *proprio motu* or at the request of the parties, in accordance with the relevant provisions of the Rules of Court.

This does not, however, mean that the orders of the Court have no binding effect. For example, the procedural time-limits fixed by means of orders are binding upon the parties, just as is the composition of the *ad hoc* chambers formed, by means of an order, at their request. One cannot fail to be mindful of the exceptional importance of the provisional measures 'which ought to be taken to preserve the respective rights of either party', that the Court may be led to indicate in a given case, likewise by means of an order.

The question of the follow-up to both the judgments and the orders of the Court is, then, of capital importance.

While the Statute of the Court has virtually nothing to say on the question, the Charter, on the other hand, includes an Article 94, paragraph 1, that is worded as follows:

> 'Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.'

Legal writers appear divided on the delicate question of whether the word 'decision', in this provision, refers only to the Court's judgments (cf. Statute, Art. 59) or also applies to orders.

However that may be, the effect of that provision is to add to the consent that the litigant State has given to the exercise of the Court's jurisdiction (by virtue of a special agreement, a compromissory clause inserted in a treaty, or a declaration of acceptance of compulsory jurisdiction of the Court) a conventional undertaking to respect its 'decisions', that is entered into by the Members of the United Nations when they accede to the Charter.

The problem of compliance with the decisions of the Court is not, for all that, entirely settled – if only because the aforementioned Article 94 of the Charter affects only the States Members of the United Nations. This is why, when the General Assembly – in accordance with Article 93, paragraph 2, of the Charter – determines the conditions under which States that are *not* Members of the United Nations may become parties to the Statute of the Court, it takes care that they enter into the same obligation to respect the

decisions of the Court. As for those States which are neither Members of the United Nations nor parties to the Statute of the Court, but to which the Court is open by virtue of Article 35, paragraph 2, of the Statute, they are likewise invited by the Security Council resolution of 15 October 1946 to undertake, by a declaration,

> 'to comply in good faith with the decision or decisions of the Court and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter'.

One may observe with satisfaction that, generally speaking, the States have complied with the judgments of the International Court of Justice and have faithfully implemented their terms. The case concerning the *Territorial Dispute* between Libya and Chad provides an example that is both recent and worthy of note. The Judgment delivered by the Court in that case, on 3 February 1994, finally put an end to a conflict that had been threatening peace in the region for almost 20 years, in spite of various attempts at a political settlement, more particularly within the framework of the United Nations and the OAU. As early as 4 April 1994, the Parties concluded an agreement 'concerning the practical modalities for the implementation' of the Court's Judgment, of which the text was communicated to the Secretary-General for transmission to the Security Council. By its resolution 915 (1994), adopted on 4 May 1994, the Council established the United Nations Aouzou Strip Observer Group (UNASOG) which, in accordance with the agreement, was to be present during the withdrawal operations and was to establish that the withdrawal was actually effected. Lastly, on 30 May 1994, the two Parties signed a joint declaration indicating that the withdrawal of the Libyan troops and administration from the Aouzou Strip had been completed on that same day to the satisfaction of the Parties and under the supervision of UNASOG; the Chief of the Military Observers of UNASOG likewise signed that declaration, as a witness.

The rapidity with which the States apply a given judicial decision is, of course, not always quite so exemplary. A State whose arguments have not been upheld by the Court does not always manifest any exceptional eagerness to comply with a judgment which has not met its expectations. However, as a rule, and in spite of certain delays – whether calculated or contrived for the occasion – the decision is indeed complied with. Compliance is sometimes facilitated by a diplomatic negotiation which enables the two litigant States to conclude, on the basis of the judicial decision, a specific agreement which may cover other related questions as well, thereby making it easier for them to settle all their disputed claims by making reciprocal concessions.

It has also happened, in the past, that the parties have not immediately implemented a decision of the Court, because they have encountered certain difficulties of interpretation of the text of that decision,

as may be the case in a maritime delimitation. A request for an interpretation presented to the Court in accordance with Article 98 of the Rules of Court may, in such an eventuality, enable any ambiguity to be resolved and thus prepare the way for an effective implementation.

All in all, an assessment of the degree of compliance with the decisions of the Court will be largely positive, as was the case with its predecessor, the Permanent Court of International Justice. It may even be pointed out that, within the framework of an international justice based upon the consent of States, certain litigant parties clearly state their intention of implementing the judicial decision to come, by means of requests addressed to the Court itself and precisely aimed at facilitating that implementation. For example, in the case concerning the *Frontier Dispute* between Burkina Faso and Mali, the two Parties, in their Special Agreement, asked the Court to nominate three experts to be entrusted with the task of demarcating the frontier to be defined by the Court. Financial aid made available by Switzerland, which covered all the expenditure on that demarcation, meant that the Judgment could be complied with in such a way as to give complete satisfaction.

However, we should not draw an unduly idealistic picture. Difficulties of implementation can arise, even if they represent the exception that proves the rule. That is what happened in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)*. In that case, the Court found in favour of Nicaragua on three counts, i.e., with respect to the indication of provisional measures, jurisdiction and the merits. The United States refused to comply with the decisions of the Court and even decided that it would no longer appear before the Court once it found that it had jurisdiction to deal with the case.

It should be pointed out that, as international justice is based upon the consent of States, and as the United States had firmly and consistently maintained that it did not consent to be judged by the Court in that case, it was to be expected that it would refuse to comply with the Judgment.

It will be remembered that, in the end, there was a change of political régime in Nicaragua, which enabled the two States to view their relations in a different light. Nicaragua was able formally to desist from its action before the Court (which still needed to reach decisions on the evaluation on the damage sustained and on reparation), while the United States was able to agree to give financial aid to Nicaragua.

Given the possibility that difficulties may arise with respect to compliance with certain decisions of the Court, what are the possible remedies? It has to be recognized that these remedies are fairly *limited* and that the Court, at least generally speaking, *lacks the means* to bring about compliance with its decisions.

There is evidence to show that this subject was discussed in San Francisco in 1945. After a number of proposals had been made and initiatives taken in vain, the framers of the Charter adopted a text proposed by Australia and Cuba, which became what is now Article 94, paragraph 2, of the Charter. That provision reads as follows:

> 'If any party to a case fails to perform the obligations incumbent upon it under a *judgment* rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.' (Emphasis added.)

This paragraph occasions a number of comments.

In the first place, it only expressly contemplates failure to comply with a *'judgment'*, apparently leaving to one side the question of *orders* and, more particularly, those by which the Court is traditionally called upon to indicate provisional measures, which may turn out to be very important.

Furthermore, that paragraph confers upon the Security Council a very extensive power of appreciation, as it only intervenes to give effect to the judgment *'if it deems [it] necessary'* to do so.

Lastly, this paragraph only makes available to one of the parties, i.e., the one which has an interest in seeing that the judgment is given effect, the option of seising the Security Council. A *third State*, or even the Security Council itself acting *proprio motu*, does not seem to be able to initiate that political action to promote compliance.

To our knowledge, the Security Council has only once been seised under Article 94, paragraph 2, of the Charter. Recourse was had to it by Nicaragua, whose intention was to bring about compliance by the United States with the Judgment of 27 June 1986, that the Court had handed down in its favour in response to its Application. However, the resolution proposed to the Council by Nicaragua was not adopted, on account of the United States veto.

It can be seen that the Charter has provided for machinery whereby a State may obtain, through the Security Council, compliance with a judgment of the Court. However, it can equally be seen that this machinery has its limitations, more particularly because of the existence of the right to veto decisions of the Security Council.

When such limitations make themselves felt, recourse must be had to the possibilities made available by international law. A State that does not comply with a decision of the International Court of Justice is, without any doubt, failing to fulfil a legal obligation and, by so doing, incurs international responsibility. The State that has benefited from the judicial decision should, then, be empowered to use against the State failing to comply with it all such measures as are made available by international law, such as retaliatory measures or even reprisals."

CHAPTER VII

PUBLICATIONS OF THE COURT

The publications of the International Court of Justice are published by the Registry (Rules of Court, Art. 26, para. 1 *(i)*, and Art. 71, para. 6; Instructions for the Registry, Arts. 23, 43, 67-69 and 72).

Information about the publications of the present Court and those of its forerunner, the *Permanent Court of International Justice*, is given below[1].

I. General

1. Series Published by the International Court of Justice

The publications of the Court are at present classified in series as shown hereunder. Their size is 15.6 × 24 cm when they are published in paper covers and 16 × 24.5 cm when published in hard covers.

(a) *Reports of Judgments, Advisory Opinions and Orders*

This series contains the Reports of the decisions of the Court in both the English and the French texts. Each decision is published as soon as given, in an unbound fascicle which is sold separately[2]. To allow for binding, a continuous system of pagination is adopted for all the fascicles of any one year.

In January of each year, an analytical index is published of the previous year's decisions; this also may be purchased separately. A binder is available for those who obtain the separate fascicles and the index at the time of their publication. The collected decisions, with index, for each year may also be obtained ready bound together in one volume.

Forty-five bound volumes have so far been published, the first being the *I.C.J. Reports* for the years 1947 and 1948, which are collected in a single volume. (The *I.C.J. Reports 1965*, *1967*, *1968*, *1977*, *1979* and *1983* are not indexed.)

Official citation of the series: *I.C.J. Reports*, with an indication of the year. For a separate fascicle the short title of the case and the nature of the decision should be given, e.g.: *Nottebohm, Preliminary Objection, Judgment, I.C.J. Reports 1953*, p. 111; or *Nottebohm, Order of 15 January 1954, I.C.J. Reports 1954*, p. 7. (See Sec. II, pp. 244-253, below.)

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[1] The documents prepared and distributed by the Registry for information purposes are dealt with in Chapter V, above: see p. 145.

[2] See Chap. V, p. 151, above.

(b) *Pleadings, Oral Arguments, Documents*

Volumes in this series are published after the termination of each case and contain the documentation relating to the case in the original language, that is, in English or in French.

This comprises the document instituting proceedings[1], the written pleadings and their annexes[2], the verbatim record of the oral proceedings[3], any documents submitted to the Court after the closure of the written proceedings, and the correspondence. The Court however decided in 1967 that the annexes to the pleadings would no longer be printed in cases which had been removed from the General List either because the application instituting proceedings disclosed that the other side had not accepted the jurisdiction of the Court or because there had been a settlement or a discontinuance of the case.

Depending upon the length of the documents to be printed, one or more volumes are issued for each case. Thus far 128 volumes have been published. The volumes which appeared up to 31 December 1964 are sold in hard covers whereas subsequent volumes are in paper covers.

Abbreviated reference: *I.C.J. Pleadings*, with the short title of the case, e.g.: *I.C.J. Pleadings, Nottebohm*, Vol. I. (See Sec. III, pp. 258-264, below.)

(c) *Acts and Documents concerning the Organization of the Court*

Five volumes have appeared in this bilingual (English/French) series.

No. 1 is now out of print.

No. 2 contained, in paper covers, the text of the Rules of Court as amended in 1972.

No. 3 contained the texts of the Charter of the United Nations, the Statute and Rules of Court and the Resolution concerning the Internal Judicial Practice of the Court, together with certain documents relating to the Court's privileges and immunities. It was published in 1977, in paper covers.

No. 4 contained the same documents as *No. 3* but with the text of the 1978 revised Rules of Court replacing that of the 1972 amended Rules; it further included certain resolutions concerning States entitled to appear before the Court. It was published in July 1978, in paper covers.

No. 5 contains the same documents as *No. 4*, with some corrections and an additional resolution concerning a State entitled to appear before the Court. It was published in July 1990, the stock of *No. 4* having been exhausted, and is available in paper covers.

Abbreviated reference: *I.C.J. Acts and Documents*, with an indication of the number of the volume.

(d) *Yearbook*

In the second half of each year there appears a *Yearbook* in which an account is given of the work of the Court during the period from 1 August

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[1] See Chap. V, pp. 147 and 155, above.
[2] *Ibid.*, pp. 147-148, above.
[3] *Ibid.*, pp. 149-150, above.

of the preceding year to 31 July of the current year. There is also a French edition of this publication, the *Annuaire*.

The present *Yearbook* is the forty-ninth in the series, which started with *I.C.J. Yearbook 1946-1947*. Like the 30 preceding issues, it is sold in paper covers whereas the first 18 volumes were sold in hard covers.

Abbreviated reference: *I.C.J. Yearbook*, with an indication of the year covered by the volume, e.g.: *I.C.J. Yearbook 1954-1955*.

(c) *Bibliography of the International Court of Justice*

Early each year the Registry issues a *Bibliography* listing such works and documents relating to the Court as have come to its attention during the previous year.

Bibliographies Nos. 1-18 formed Chapter IX in the appropriate *Yearbook* or *Annuaire* up to the 1963-1964 editions. Beginning with No. 19, later *Bibliographies* were issued as separate fascicles with introduction and index in both English and French, but arranged so as to facilitate the binding of several numbers together. The latest *I.C.J. Bibliography* published is No. 47 (year 1993).

Abbreviated reference: *I.C.J. Bibliography*, with the serial number of the volume, followed, if desired, by the entry number of the work cited. E.g.: *I.C.J. Bibliography No. 7:* 2528 for the *Bibliographies* prior to No. 35, and *I.C.J. Bibliography No. 35:* 81: 150 as from 1981.

2. Dissemination of the Publications of the International Court of Justice

The publications of the Court are distributed free on request and as required to the governments or public services of all States entitled to appear before the Court.

They may be consulted in major law libraries, including many university libraries, certain depository libraries for United Nations publications, and libraries aided by the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law.

They are sold by the Sales Sections of the United Nations Secretariat: Distribution and Sales Section, Office of the United Nations, 1211 Geneva 10, Switzerland, or the Sales Section, United Nations, New York, NY 10017, USA, and may also be obtained from any bookseller selling United Nations publications. *Orders and requests for information should be sent to these addresses and not to the Registry*.

A *Catalogue* is issued in English and French. It lists the sales number of each publication and its price in US dollars. It is brought up to date each year, by means either of an addendum or of a new edition. A free copy of the *Catalogue* may be obtained by applying to one of the Sales Sections of the United Nations or to the Registry.

3. Publications of the Permanent Court of International Justice

Between 1922 and 1946 the *Permanent Court of International Justice* published the following series:

Series A (Nos. 1-24): *Collection of Judgments* (up to and including 1930)
Series B (Nos. 1-18): *Collection of Advisory Opinions* (up to and including 1930)
Series A/B (Nos. 40-80): *Judgments, Orders and Advisory Opinions* (beginning in 1931)
Series C (Nos. 1-19): *Acts and Documents relating to Judgments and Advisory Opinions given by the Court* (up to and including 1930)
Series C (Nos. 52-88): *Pleadings, Oral Statements and Documents* (beginning in 1931)
Series D (Nos. 1-6): *Acts and Documents concerning the Organization of the Court*
Series E (Nos. 1-16): *Annual Reports*
Series F (Nos. 1-4): *General Indexes*

They may be consulted in certain university and other libraries with a substantial legal section.

They can also be obtained from Kraus Reprint Company, Kraus Organization Limited, Route 100, Millwood, NY 10546, USA, to whom all orders and requests for information should be addressed.

II. Official Citation of Judgments, Advisory Opinions and Orders

In order to standardize the mode of citation of the decisions of the International Court of Justice and the *Permanent Court of International Justice*, the Court decided to use the titles below, which are listed in chronological order.

Orders solely fixing or extending time-limits are omitted.

1. Permanent Court of International Justice

1922

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, Advisory Opinion, 1922, P.C.I.J., Series B, No. 1.

Competence of the ILO in Regard to International Regulation of the Conditions of Labour of Persons Employed in Agriculture, Advisory Opinion, 1922, P.C.I.J., Series B, No. 2.

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, Advisory Opinion, 1922, P.C.I.J., Series B, No. 3.

1923

Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923, P.C.I.J., Series B, No. 4.

Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5.

S.S. "Wimbledon", Judgments, 1923, P.C.I.J., Series A, No. 1.

German Settlers in Poland, Advisory Opinion, 1923, P.C.I.J., Series B, No. 6.

Acquisition of Polish Nationality, Advisory Opinion, 1923, P.C.I.J., Series B, No. 7.

Jaworzina, Advisory Opinion, 1923, P.C.I.J., Series B, No. 8.

1924

Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2.

Monastery of Saint-Naoum, Advisory Opinion, 1924, P.C.I.J., Series B, No. 9.

Treaty of Neuilly, Article 179, Annex, Paragraph 4 (Interpretation), Judgment No. 3, 1924, P.C.I.J., Series A, No. 3.

1925

Exchange of Greek and Turkish Populations, Advisory Opinion, 1925, P.C.I.J., Series B, No. 10.

Interpretation of Judgment No. 3, Judgment No. 4, 1925, P.C.I.J., Series A, No. 4.

Mavrommatis Jerusalem Concessions, Judgment No. 5, 1925, P.C.I.J., Series A, No. 5.

Polish Postal Service in Danzig, Advisory Opinion, 1925, P.C.I.J., Series B, No. 11.

Certain German Interests in Polish Upper Silesia, Jurisdiction, Judgment No. 6, 1925, P.C.I.J., Series A, No. 6.

Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne, Advisory Opinion, 1925, P.C.I.J., Series B, No. 12.

1926

Certain German Interests in Polish Upper Silesia, Merits, Judgment No. 7, 1926, P.C.I.J., Series A, No. 7.

Competence of the ILO to Regulate Incidentally the Personal Work of the Employer, Advisory Opinion, 1926, P.C.I.J., Series B, No. 13.

1927

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Orders of 8 January, 15 February and 18 June 1927, P.C.I.J., Series A, No. 8.

Factory at Chorzów, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9.

"Lotus", Judgment No. 9, 1927, P.C.I.J., Series A, No. 10.

Readaptation of the Mavrommatis Jerusalem Concessions, Judgment No. 10, 1927, P.C.I.J., Series A, No. 11.

Factory at Chorzów, Order of 21 November 1927, P.C.I.J., Series A, No. 12.

Jurisdiction of the European Commission of the Danube, Advisory Opinion, 1927, P.C.I.J., Series B, No. 14.

Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13.

1928

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 21 February 1928, P.C.I.J., Series A, No. 14.

Jurisdiction of the Courts of Danzig, Advisory Opinion, 1928, P.C.I.J., Series B, No. 15.

Rights of Minorities in Upper Silesia (Minority Schools), Judgment No. 12, 1928, P.C.I.J., Series A, No. 15.

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 13 August 1928, P.C.I.J., Series A, No. 16.

Interpretation of the Greco-Turkish Agreement of 1 December 1926 (Final Protocol, Article IV), Advisory Opinion, 1928, P.C.I.J., Series B, No. 16.

Factory at Chorzów, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17.

1929

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 25 May 1929, P.C.I.J., Series A, No. 18.

Factory at Chorzów, Order of 25 May 1929, P.C.I.J., Series A, No. 19.

Serbian Loans, Judgment No. 14, 1929, P.C.I.J., Series A, No. 20.

Brazilian Loans, Judgment No. 15, 1929, P.C.I.J., Series A, No. 21.

Free Zones of Upper Savoy and the District of Gex, Order of 19 August 1929, P.C.I.J., Series A, No. 22.

Territorial Jurisdiction of the International Commission of the River Oder, Judgment No. 16, 1929, P.C.I.J., Series A, No. 23.

1930

Greco-Bulgarian "Communities", Advisory Opinion, 1930, P.C.I.J., Series B, No. 17.

Free City of Danzig and ILO, Advisory Opinion, 1930, P.C.I.J., Series B, No. 18.

Free Zones of Upper Savoy and the District of Gex, Order of 6 December 1930, P.C.I.J., Series A, No. 24.

1931

Access to German Minority Schools in Upper Silesia, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 40, p. 4.

Customs Régime between Germany and Austria, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 41, p. 37.

Railway Traffic between Lithuania and Poland, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 42, p. 108.

Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 43, p. 128.

1932

Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 44, p. 4.

Interpretation of the Greco-Bulgarian Agreement of 9 December 1927, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 45, p. 68.

Free Zones of Upper Savoy and the District of Gex, Judgment, 1932, P.C.I.J., Series A/B, No. 46, p. 96.

Interpretation of the Statute of the Memel Territory, Preliminary Objection, Judgment, 1932, P.C.I.J., Series A/B, No. 47, p. 243.

Legal Status of the South-Eastern Territory of Greenland, Orders of 2 and 3 August 1932, P.C.I.J., Series A/B, No. 48, p. 268.

Interpretation of the Statute of the Memel Territory, Merits, Judgment, 1932, P.C.I.J., Series A/B, No. 49, p. 294.

Interpretation of the Convention of 1919 concerning Employment of Women during the Night, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 50, p. 365.

1933

Delimitation of the Territorial Waters between the Island of Castellorizo and the Coasts of Anatolia, Order of 26 January 1933, P.C.I.J., Series A/B, No. 51, p. 4.

Prince von Pless Administration, Order of 4 February 1933, P.C.I.J., Series A/B, No. 52, p. 11.

Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53, p. 22.

Prince von Pless Administration, Order of 11 May 1933, P.C.I.J., Series A/B, No. 54, p. 150.

Legal Status of the South-Eastern Territory of Greenland, Order of 11 May 1933, P.C.I.J., Series A/B, No. 55, p. 157.

Appeals from Certain Judgments of the Hungaro/Czechoslovak Mixed Arbitral Tribunal, Order of 12 May 1933, P.C.I.J., Series A/B, No. 56, p. 162.

Prince von Pless Administration, Order of 4 July 1933, P.C.I.J., Series A/B, No. 57, p. 167.

Polish Agrarian Reform and German Minority, Order of 29 July 1933, P.C.I.J., Series A/B, No. 58, p. 175.

Prince von Pless Administration, Order of 2 December 1933, P.C.I.J., Series A/B, No. 59, p. 194.

Polish Agrarian Reform and German Minority, Order of 2 December 1933, P.C.I.J., Series A/B, No. 60, p. 201.

Appeal from a Judgment of the Hungaro/Czechoslovak Mixed Arbitral Tribunal (The Peter Pázmány University), Judgment, 1933, P.C.I.J., Series A/B, No. 61, p. 208.

1934

Lighthouses case between France and Greece, Judgment, 1934, P.C.I.J., Series A/B, No. 62, p. 4.

Oscar Chinn, Judgment, 1934, P.C.I.J., Series A/B, No. 63, p. 65.

1935

Minority Schools in Albania, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 64, p. 4.

Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 65, p. 41.

1936

Pajzs, Csáky, Esterházy, Order of 23 May 1936, P.C.I.J., Series A/B, No. 66, p. 4.

Losinger, Order of 27 June 1936, P.C.I.J., Series A/B, No. 67, p. 15.

Pajzs, Csáky, Esterházy, Judgment, 1936, P.C.I.J., Series A/B, No. 68, p. 30.

Losinger, Order of 14 December 1936, P.C.I.J., Series A/B, No. 69, p. 99.

1937

Diversion of Water from the Meuse, Judgment, 1937, P.C.I.J., Series A/B, No. 70, p. 4.

Lighthouses in Crete and Samos, Judgment, 1937, P.C.I.J., Series A/B, No. 71, p. 94.

Borchgrave, Judgment, 1937, P.C.I.J., Series A/B, No. 72, p. 158.

1938

Borchgrave, Order of 30 April 1938, P.C.I.J., Series A/B, No. 73, p. 4.

Phosphates in Morocco, Judgment, 1938, P.C.I.J., Series A/B, No. 74, p. 10.

Panevezys-Saldutiskis Railway, Order of 30 June 1938, P.C.I.J., Series A/B, No. 75, p. 53.

1939

Panevezys-Saldutiskis Railway, Judgment, 1939, P.C.I.J., Series A/B, No. 76, p. 4.

Electricity Company of Sofia and Bulgaria, Judgment, 1939, P.C.I.J., Series A/B, No. 77, p. 64.

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III. Abbreviated References to Pleadings, Oral Arguments, Documents

In order to standardize the abbreviated references to the *Pleadings, Oral Arguments, Documents* series of the International Court of Justice and the corresponding volumes *(Series C)* of the *Permanent Court of International Justice*, the Court decided to use the titles below, which are given in chronological order based on the date of entry of the case in the General List.

For the convenience of the reader, the names of the Parties in contentious cases (separated by a stroke if proceedings were instituted by means of a special agreement), or the name of the body which requested the advisory opinion, have been added in small type to the abbreviated references.

An asterisk indicates that a case was removed from the list before a final judgment or an advisory opinion was given, or if it failed for some other reason to reach its normal conclusion.

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CHAPTER VIII

FINANCES OF THE COURT

I. Financial Regulations

In regard to financial matters, the International Court of Justice applies Articles 32, 33, 35 and 64 of the Statute of the Court, Article 26, paragraph 1 *(j)*, of the Rules of Court, the Staff Regulations for the Registry and the relevant resolutions of the General Assembly of the United Nations.

1. General Regulations

(a) *Method of covering expenditure*

Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute (see Chap. III, pp. 64-65, above), a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them. By its resolution 49/19 of 23 December 1994, the General Assembly decided that these States should contribute to the expenses of the Court for the years 1995, 1996 and 1997 in the following proportions: Nauru 0.01%; Switzerland 1.21%.

If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations in New York.

The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization.

Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat – see Chap. VII, p. 238, above), bank interest, etc., are also recorded as United Nations income.

(b) *Drafting of the budget*

In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. If the Court is sitting, this preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself. If the Court is not sitting, approval must be given by the President.

When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations and its unforeseen and extraordinary expenses.

Since 1974 the budget has been presented biennially.

(c) *Financing of appropriations and accounts*

The Registrar is responsible for executing the budget, with the assistance of the Accountant/Establishment Officer. He has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget (Instructions for the Registry, Art. 31). He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority (Instructions for the Registry, Art. 35).

The accounts of the Court are audited every year by the auditors of the Secretariat of the United Nations and by the Board of Auditors appointed by the General Assembly. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations (Instructions for the Registry, Art. 34).

2. Salaries and Expenses of Judges

(a) *Emoluments*

By virtue of Article 32, paragraph 5, of the Statute, the salaries, allowances and compensation paid to the judges are fixed by the General Assembly. In this connection, the General Assembly adopted resolution 19 (I) of 6 February 1946, resolution 85 (I) of 11 December 1946, resolution 474 (V) of 15 December 1950, resolution 1738 (XVI) of 20 December 1961, resolution 2366 (XXII) of 19 December 1967, resolution 2890 B (XXVI) of 22 December 1971, resolution 3193 B (XXVIII) of 18 December 1973, resolution 3537 B (XXX) of 17 December 1975, resolution 31/204 of 22 December 1976, resolution 35/220 A of 17 December 1980, resolution 40/257 of 18 December 1985, resolution 45/250 of 21 December 1990 and resolution 48/252 of 26 May 1994.

The emoluments of Members of the Court are made up of an annual salary which may not be decreased during the period of office (Statute of the Court, Art. 32, paras. 1 and 5). With effect from 1 January 1991, the General Assembly (resolution 45/250) has fixed the emoluments of Members of the Court at US$145,000. The General Assembly further decided that the emoluments and other conditions of service shall be reviewed every two years with the next review at its fiftieth session.

Under Article 32, paragraphs 2 and 3, of the Statute, the President of the Court and the Vice-President (for every day on which he acts as President) receive special allowances in addition, at a rate fixed by resolution 40/257 of 18 December 1985.

Finally, under Article 32, paragraph 4, of the Statute and General Assembly resolution 19 (I) of 6 February 1946, judges *ad hoc* chosen to sit in certain cases under Article 31 of the Statute receive daily fees. With effect from 1 January 1991, the daily fee of *ad hoc* judges has been fixed at US$397, being 1/365th of US$145,000.

The emoluments of the judges are thus as set out on the following scale:

	US$
President:	
Annual salary	145,000
Special allowance	15,000
Vice-President:	
Annual salary	145,000
Allowance equivalent to US$94 for every day on which he acts as President, up to an annual maximum of	9,400
Other Members:	
Annual salary	145,000
Judges ad hoc:	
Fee of US$397 for each day on which they exercise their functions.	

(b) *Pensions*

Article 32, paragraph 7, of the Statute provides: "Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to Members of the Court." The General Assembly adopted the Pension Scheme Regulations for Members of the International Court of Justice which appear as an annex to resolution 86 (I) of 11 December 1946. Amendments to these regulations were made by resolution 1408 (XIV) of 1 December 1959. The General Assembly adopted new regulations by its resolution 1562 (XV) of 18 December 1960. Some provisions of the regulations were modified by resolution 1925 (XVIII) of 11 December 1963, resolution 2367 (XXII) of 19 December 1967, resolution 2890 A (XXVI) of 22 December 1971, resolution 3193 A (XXVIII) of 18 December 1973, resolution 3537 A (XXX) of 17 December 1975, resolution 35/220 B of 17 December 1980. The General Assembly effected further modifications by resolution 38/239 of 20 December 1983, resolution 40/257 of 18 December 1985 and resolution 45/250 of 21 December 1990.

According to the regulations which came into operation on 1 January 1984, any Member of the Court who has ceased to hold office and who has reached the age of 60 years is entitled, if he has completed at least three years of service, to a retirement pension during the remainder of his life.

With effect from 1 January 1991 (resolution 45/250), if a Member of the Court has served a full term of nine years, the amount of the annual pension is US$50,000. If he has served for more than nine years, the amount of the pension is increased up to a maximum of US$75,000. It is reduced if he has served for less than nine years.

Furthermore, a Member of the Court who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he reached that age, may elect to receive a pension from any date after the date on which he ceases to hold office. The amount of such pension would be that amount which has the same actuarial value as the pension which would have been paid to him at the age of 60.

Provision is made also for disability pensions and pensions for widows and children.

By its resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to Members of the Court should be reviewed concurrently with the periodic revision of their annual salary.

(c) *Conditions of service*

In Section C of resolution 40/257 of 18 December 1985, the General Assembly laid down certain conditions of service applicable to Members of the Court. The text of the relevant portion of this resolution is as follows:

"*The General Assembly*,

Recalling its resolutions 37/237, section XIV, of 21 December 1982, 38/234, section XVII, of 20 December 1983, and 39/236, section V, of 18 December 1984, on conditions of service and compensation for officials other than Secretariat officials,

Having considered the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions,

1. *Decides* that, with effect from 1 January 1986, the President and members of the Court who have taken up primary residence in The Hague, shall be reimbursed, up to a ceiling of $4,500, for the actual cost of educating their children in respect of each child each year up to the award of the first recognized degree and that provision shall be made for one related travel per year in respect of each child from the place of scholastic attendance, when outside the Netherlands, to The Hague;

2. *Decides* that, with effect from 1 January 1986, those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for at least five continuous years during service with the Court, shall be eligible to receive a lump sum equivalent to eighteen weeks of annual net base salary upon completion of their appointment and resettlement outside the Netherlands, and that those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for nine continuous years or more during service with the Court, shall receive the equivalent of twenty-four weeks of annual net base salary upon completion of service and relocation outside the Netherlands;

3. *Decides* that, with effect from 1 January 1986, in the event of the death of a member of the Court during his service, compensation shall be provided to the survivors in the form of a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months."

With effect from 1 January 1994, the ceiling for reimbursement for the actual cost of education, referred to in paragraph 1 of the above resolution, was fixed at US$9,750.

(d) *Travelling expenses*

By virtue of Article 32, paragraph 7, of the Statute, regulations made by the General Assembly fix the conditions under which Members of the Court have their travelling expenses refunded. The General Assembly adopted the Travel and Subsistence Regulations of the International Court of Justice which appear in the annex to resolution 85 (I) of 11 December 1946. On 21 December 1982, by resolution 37/240, it adopted new Travel and Subsistence Regulations of the International Court of Justice (set out in *I.C.J. Yearbook 1982-1983*, pp. 164-167).

3. Salaries, Allowances and Expenses of the Registrar and Officials of the Registry

(a) *Emoluments*

By virtue of Article 32, paragraph 6, of the Statute, the salary of the Registrar is fixed by the General Assembly on the proposal of the Court. By resolution 85 (I) of 11 December 1946 confirmed by resolution 474 (V) of 15 December 1950, the General Assembly decided that "the annual salary of the Registrar of the International Court of Justice shall be assimilated to that of a top-ranking director of the Secretariat of the United Nations". In the existing structure, the Registrar has the rank of an Assistant Secretary-General and the Deputy-Registrar that of a Director.

Officials of the Registry in the professional category, both permanent and temporary, receive the same salary and the same allowances as officials of the United Nations belonging to the same category.

For the purposes of the schedule of post adjustments applicable to the permanent staff of the professional category, The Hague was in Class 9/+0.1 as from 1 July 1995. For temporary staff of the professional category, the subsistence allowance is fixed at 394 guilders a day.

Salaries and allowances of permanent and temporary staff members in the general service category are based on the best prevailing local rates.

The figures given in the budget estimates and accounts in respect of salaries are net figures, after deduction of staff assessment.

(b) *Pensions*

By virtue of Article 12 of the Staff Regulations for the Registry, the Registrar and the officials of the Registry are participants in the United Nations Joint Staff Pension Fund. They participate on the same conditions as all other officials of the United Nations.

(c) *Travelling expenses*

Under Article 5 of the regulations concerning the travel and subsistence allowances of the Members of the International Court of Justice, dated 21 December 1982 (*I.C.J. Yearbook 1982-1983*, p. 167), the travel and subsistence provisions applicable to the Registrar of the Court are as set out in the Staff Regulations of the United Nations for officials of comparable rank, subject to any exceptions authorized by the President of the Court.

The travelling expenses of officials of the Registry are paid under conditions similar to those applied in the Secretariat of the United Nations (Staff Regulations for the Registry, Art. 12).

4. Common Services

The common services of the Court and of the Registry and the capital expenditure of the Court come under special items in the budget.

In particular, the Court pays to the Carnegie Foundation an annual contribution for the premises it occupies at the Peace Palace and in the new wing (see Chap. V, p. 138, above). The amount of the contribution was first fixed by the General Assembly in resolution 84 (I) of 11 December 1946 and has subsequently undergone successive alterations. It was increased to 1,096,700 guilders as from 1 January 1994 and to 1,157,100 guilders as from 1 January 1995.

II. Budget for the Biennium 1994-1995

1. Ordinary Expenses

The Budget of the Court for the biennium 1994-1995, which forms Part III, Section 5, of the Budget of the United Nations, was adopted by the General Assembly on 23 December 1993 (resolution 48/231 A).

	US$	US$
PROGRAMME UN-N-8-181. MEMBERS OF THE COURT		
Salaries and allowances	4,550,000	
Pensions	1,850,000	
Travelling expenses	536,800	
Education grants	166,500	
		7,103,300
PROGRAMME UN-N-8-182. THE REGISTRY		
Salaries – established posts	5,445,300	
Salaries – temporary posts	649,400	
Common staff costs	2,037,000	
Salaries and travel costs of temporary assistance	870,800	
Consultants	86,800	
Travelling on official business	56,500	
Overtime	74,700	
Representation allowance	7,200	
Hospitality	10,000	
		9,237,700
PROGRAMME UN-N-8-800. COMMON SERVICES		
Contribution to the Carnegie Foundation	1,310,400	
General operating expenses	397,800	
Contractual printing	531,900	
Contracts – external translation	208,500	
Data processing services	22,300	
Supplies and materials	156,800	
Library	110,000	
Furniture and equipment	53,300	
Miscellaneous expenses	23,700	
Acquisition/replacement office automation equipment	124,200	
Vehicles	36,100	
		2,975,000
		19,316,000

2. Unforeseen and Extraordinary Expenses

On 23 December 1993 the General Assembly, in accordance with previous practice, adopted resolution 48/229, containing the following provisions:

"*The General Assembly*

1. *Authorizes* the Secretary-General, with the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions and subject to the Financial Regulations of the United Nations and the provisions of paragraph 3 below, to enter into commitments in the biennium 1994-1995 to meet unforeseen and extraordinary expenses arising either during or subsequent to that biennium, provided that the concurrence of the Advisory Committee shall not be necessary for:

. . . . . .

(b) Such commitments as the President of the International Court of Justice certifies relate to expenses occasioned by:

(i) The designation of *ad hoc* judges (Statute of the International Court of Justice, Article 31), not exceeding a total of $300,000;

(ii) The appointment of assessors (Statute, Article 30), or the calling of witnesses and the appointment of experts (Statute, Article 50), not exceeding a total of $50,000;

(iii) The maintenance in office for completion of the cases of judges (schedule A) who have not been re-elected (Statute, Article 13, paragraph 3), not exceeding a total of $40,000;

(iv) The payment of pensions and travel and removal expenses of retiring judges, and travel and removal expenses and installation grant of members of the Court (schedules B and C) (Statute, Article 32, paragraph 7) not exceeding a total of $180,000;

(v) The holding of sessions of the Court away from The Hague (Statute, Article 22), not exceeding a total of $50,000."

3. Audit of Accounts

The accounts were audited by the competent authorities from 7 to 18 March 1994 and from 27 February to 10 March 1995.

The publications of the INTERNATIONAL COURT OF JUSTICE may be ordered from any bookseller. For information regarding the sale of the Court's publications please write to the *Distribution and Sales Section, Office of the United Nations, 1211 Geneva 10 (Switzerland)*, or the *Sales Section, United Nations, New York, NY 10017 (USA)*.

The publications of the PERMANENT COURT OF INTERNATIONAL JUSTICE (1920-1946) are obtainable from Kraus Reprint Company, Kraus Organization Limited, Route 100, Millwood, NY 10546, USA, to which all requests should be addressed.

All enquiries other than with regard to purchase of publications should be addressed to the *Registrar of the International Court of Justice, Peace Palace, 2517 KJ The Hague, Netherlands* (telephone: (3170) 302 23 23).

PRINTED IN THE NETHERLANDS

ISSN 0074-445X
ISBN 92-1-170072-8